

Senate Budget & Fiscal Review



Subcommittee No. 3
on
Health, Human Services, Labor, and Veterans Affairs

Senator Wesley Chesbro, Chair
Senator Ray N. Haynes
Senator Deborah Ortiz

May 18, 2002
4:00 P.M.

ROOM 4203

AGENDA II

(to be heard after DIR and DVA *but before* Social Services)

(Diane Van Maren, Consultant)

.....

<u><i>Item</i></u>	<u><i>Description</i></u>
4120	Emergency Medical Services Authority
0530	CA Health and Human Services Agency & Office of HIPAA (Including Budget Control Section 17)
4280	Managed Risk Medical Insurance Board (MRMIB) (Access for Infants & Mothers (AIM) Program will be heard with Proposition 99 funds)
4260	Department of Health Services – Public Health and Medi-Cal
4440	Department of Mental Health
4300	Department of Developmental Services

PLEASE NOTE:

- **ALL** previous actions taken by the Subcommittee remain, unless the Subcommittee otherwise modifies the proposal at the May Revision.
- The CONSENT CALENDARS for each department may include the **denial** of proposals, as well as **acceptance** of proposals. This will be noted under the staff recommendation section.

I. 4120 Emergency Medical Services Authority (EMSA) (On Consent)

ITEMS RECOMMENDED FOR CONSENT (1 and 2)

1. General Fund Reductions for the EMSA

Governor's May Revision: The May Revision proposes to **reduce the EMSA by a total of \$874,000 (General Fund)** due to the continued weakness in the stock market and the economy.

Specifically this **consists of a reduction of (1)** \$400,000 for the California Poison Control System, **(2)** \$153,000 in EMSA state support, and **(3)** \$321,000 from local assistance. These General Fund decreases represent **a 10 percent funding reduction** for these programs.

Subcommittee Staff Recommendation: It is recommended **to adopt this reduction due to the fiscal crisis.**

2. Hospital Bioterrorism Preparedness Program

Background—Overall Summary: The Emergency Supplemental Appropriations for Recovery & Response to Terrorist Attacks on the US Act (Public Law 107-117 of 2002), among many other things, will **provide California with about \$100 million** overall in increased federal support to address both local and state concerns regarding the threat of bioterrorism.

Specifically, this level of funding includes the following:

- \$60.8 million from the federal Centers for Disease Control (CDC) to the DHS;
- \$24.6 million from the CDC to Los Angeles County (including Long Beach City and Pasadena City). These funds are to be directly provided to the county upon approval by the federal government of the county's application.
- **\$10 million from the federal Health Resources and Services Administration (HRSA) to the DHS;**
- \$3.7 million from HRSA to Los Angeles County (directly); and
- \$2.2 million from the federal Department of Health and Human Services provided directly from DHHS to certain metropolitan areas.

Background—HRSA Hospital Funds: **To obtain the federal HRSA funds, California submitted a comprehensive application (with the Governor's endorsement) on April 15, 2002. The federal HRSA funds are to be expended to develop and implement regional plans to improve the capacity of hospitals,** their emergency departments, outpatient centers, emergency medical service systems and other collaborating healthcare entities for responding to situations requiring mass immunization, treatment, isolation and quarantine in the event of infectious disease outbreaks or bioterrorism.

Though the DHS will be receiving these funds directly from HRSA, they intend to have the Emergency Medical Services Authority (EMSA) utilize the funds for further developing and implementing emergency medical systems (as is the EMSA's responsibility).

According to the EMSA, there are **three “critical benchmarks”** that are contained in the state’s HRSA grant application. **These include:** (1) staffing and medical direction for the program; (2) creation of a Hospital Bioterrorism Preparedness Planning Committee, (3) coordination among the three grant programs (i.e., CDC, HRSA and federal DHHS) to standardize protocols and minimize redundancy.

Section 28 Letter—Approved by Subcommittee on April 22nd: The Administration requested to use \$375,000 of the \$10 million in federal HRSA funds in the current-year to (1) administer the grant, (2) serve as staff to the Hospital Bioterrorism Planning Committee, (3) produce progress reports and a final report as required by the contract provisions, and (4) develop, conduct and analyze the statewide hospital bioterrorism needs assessment. **Specifically, the proposed current expenditures are as follows:** (1) \$99,000 for four state positions and operating expenses, (2) \$250,000 for a contract to conduct a statewide hospital bioterrorism needs assessment, and (3) \$26,000 to contract with a medical director.

Governor’s May Revision—Conforms to Grant Application: The May Revision proposes to (1) utilize \$597,000 (federal grant funds) for state support, including continuation of the four positions established in the current year (expire as of 2003) and consultant contracts, and (2) **allocated \$8.5 million (federal grant funds) in local assistance to develop and implement bioterrorism response planning in California.** The program will run for two years.

The \$8.5 million in local assistance funds will be distributed based on the findings of the need’s assessment to local and regional community agencies and hospitals to develop coordinated local plans for handling bioterrorism events.

According to the EMSA, the HRSA is making \$125 million available in federal fiscal year 2002 to fifty-nine state, territorial and selected municipal offices of public health to upgrade the preparedness of the nation’s hospitals and collaborating entities to respond to bioterrorism.

Subcommittee Staff Recommendation: It is recommended **to adopt the proposal.**

II. 0530 CA Health and Human Services Agency & Office of HIPAA

ITEM FOR CONSENT

1. General Fund Reduction

Background and Governor's January Budget: Due to the fiscal situation, the Agency was directed to reduce their General Fund budget by 15 percent, or \$180,000. **To this end, the budget proposes elimination of two positions—Assistant Secretary and Staff Services Manager I—and \$180,000. The Subcommittee adopted this action in the April 22 hearing.**

Governor's May Revision: Due to the continued weakness in the stock market and the economy, the May Revision proposes an additional reduction of \$185,000 (General Fund).

Subcommittee Staff Recommendation: It is recommended to concur with this proposal.

ITEM FOR DISCUSSION

1. Health Insurance Portability & Accountability Act (HIPAA)—ALL ITEMS

Background--HIPAA: In essence, all health-related organizations/providers/clearinghouses that electronically maintains or transmits health information pertaining to an individual are **required to comply with the HIPAA standards within two years of their adoption.**

Among these standards are:

- **Security and privacy standards** for health information.
- **Code sets and classification system** for the data elements of the transactions identified, including **all clinical diagnostic services**, procedures and treatments.
- **Electronic transactions and data elements for health claims** and equivalent encounter information, claims attachments, health care payment and remittance advice, health plan eligibility, enrollment and disenrollment, referral certification and authorization, and coordination of benefits.
- **Unique identifiers for individuals, employers, health plans, and health care providers** for use in the health care system.

Note about "Local Codes": California uses about **6,000 local codes**. **The following is a list of some key ones:** alcohol and drug abuse treatment, case management, day treatment, community service program, crisis intervention, dialysis, durable medical equipment, EPSDT services, home health, FQHC and Rural Health Center clinic services, hospital services, lab services, nursing services, vaccines and immunizations, Waiver programs, Family PACT, mental health services, and nursing home services. **Specific medical and payment policy will need to be extensively reviewed to determine the impact of consolidating and standardizing these local codes. As**

noted by the DHS, there are extensive issues here regarding medical and payment policy implications, rate of payment and special programs scope-of-service definitions.

President Bush: It should be noted that President Bush signed recent legislation which provides for a one-year extension (***to October 16, 2003***) of the HIPAA compliance deadline for Transactions and Codes sets.

Background—CHHS Agency--Office of HIPAA Implementation (OHI): SB 456, Statutes of 2001, created a statutory framework for implementation of HIPAA, including the establishment of OHI within the Health and Human Services Agency. **OHI will serve as the lead entity for that state's activities, including policy formulation, direction, oversight, and coordination.**

OHI has identified five phases that comprise HIPAA compliance. These phases include (1) project initiation, (2) initial assessment, (3) project plan, (4) detailed assessment, and (5) remediation. Each phase consists of several projects.

Governor's May Revision (See Hand Out—DOF Chart): The May Revision proposes total funding of about **\$85.2 million (\$24.5 million General Fund, and \$60.7 million federal funds)**. This reflects an overall reduction of **\$7.1 million (\$194,000 General Fund and \$7.3 million federal funds)**. This includes the departments within the Health and Human Services Agency, Corrections, Youth Authority, DPA, CalPERS, and the DVA.

Legislative Analyst's Office Recommendation (See Hand Out—LAO Chart): The LAO recommends the following with respect to overall HIPAA implementation:

- **Reject the HIPAA proposals for the Departments of Aging, Alcohol and Drug Programs, CalPERS, Corrections, Developmental Services, Health and Human Services Agency, Personnel Administration, Social Services, and Veterans Affairs;**
- **Adopt the Department of Health Services proposal** to reclassify 7 limited-term positions and establish 8 permanent positions;
- **Authorize (1) four two-year limited-term positions in DSS, (2) five two-year limited-term positions in CYA, (3) six two-year year limited-term positions in CDC, (4) five two-year limited-term positions in DADP, (5) three permanent positions in CalPERS, and (6) one two-year limited-term position in the DPA.**
- **Establish Budget Item 9909, and schedule the following amounts:**

Department	General Fund	Special Fund	Total
Aging	130.0	70.0	200.0
CalPERS		223.0	223.0
CDC	654.0		654.0
CYA	497.1		497.1
CHHS	895.0		
DADP	960.6	960.6	1,921.2
DDS	354.0	354.0	708.0
DPA		225.0	225.0
DSS	204.9	294.9	499.8
DVA	134.0		134.0
Total	3,829.6	2,127.5	5,062.1

- **Adopt Budget Bill Language** (as contained in the LAO Hand Out)

Subcommittee Request and Questions: The Subcommittee has requested the LAO and Administration to respond to the following questions.

- 1. LAO (Ms Brannen), Please present the recommendation, including the proposed adjustment level, positions, Item 9909 and Budget Bill Language.
- 2. Administration, Please respond to the issues raised.

III. 4280 Managed Risk Medical Insurance Board (MRMIB)

ITEMS FOR CONSENT

1. Trailer Bill Adjustments to the Healthy Families Program

Governor’s May Revision: The Managed Risk Medical Insurance Board (MRMIB) has requested three pieces of technical language regarding the Healthy Families Program. **These are as follows:**

- **Healthy Families to Medi-Cal Bridge:** Insurance Code section 12693.981, added by the 2001 trailer bill (AB 430), provides for a two month bridge for subscribers who lose Healthy Families eligibility because they become Medi-Cal eligible. However subdivision 12693.981(e) provides that “[t]his section shall be implemented only if the State Child Healthy Insurance Program waiver described in Section 12693.755 is approved, and at the time the waiver is implemented.” (Emphasis added.) The last phrase makes implementation of the bridge contingent on implementation of the waiver; **therefore, trailer bill language is needed to permit the state to implement the bridge independent of the waiver.**
- **Electronic Funds Transfer Discount:** Another program improvement included in the parental expansion waiver was provision **of a 25 percent discount for families paying their premiums by electronic funds transfer.** In the absence of parental expansion, the Healthy Families Program does not have authority to offer the discount, since the statute specifies the dollar amount of the premiums that families must pay and spells out what discounts are available, for example, discounts for families who choose the “Community Provider Plan or who pay for three months at a time. (Insurance Code section 12693.43.) **Since the state now seeks to implement this feature independent of the parental expansion, authorizing statutory language is needed.**
- **Sponsorship Flexibility:** The Healthy Families statute currently allows for payment of premiums by “family contribution sponsors.” Under current law, if a sponsor pays the family’s premium for twelve full months, the family does not have to make an initial premium payment as a condition of enrollment in Healthy Families and is not responsible for premiums during the first year. However, the statute currently defines “family contribution

sponsor” as “a person or entity that pays the family contribution on behalf of an applicant for the period of 12 months from the month eligibility is established” (Emphasis added.) This language limits sponsorship to the first 12 months of a subscriber’s participation in Healthy Families.

As part of the parental expansion waiver, the state proposed to make sponsorship provisions more flexible, permitting a sponsor to pay family contributions for any 12 months. When it was anticipated that this change would occur in conjunction with the parental expansion waiver, an amendment to the statute was not needed because the authority was found in the “blanket” language of Insurance Code section 12693.755(b)(2). **Because the state now seeks to implement the sponsorship changes independent of the parental expansion waiver, trailer bill language is necessary to authorize sponsorship at times other than the first 12 months of eligibility.**

Subcommittee Staff Recommendation: It is recommended **to adopt this language in concept and to work with the Administration and constituency groups through the trailer bill process to make any small/minor modification.**

ITEMS FOR DISCUSSION

1. Healthy Families Program—Baseline Children’s Program and Elimination of Parent Coverage for BY (ISSUES “A” through “C”)

ISSUE “A”—Current Year Adjustment for Children’s Program

Revised Current Year Adjustment: The May Revision adjustment for the current year reflects **no net change in the year-end total caseload of 558,888 children** (as of June 30, 2002). **However**, based on actual data through February 2002, the May Revision reflects a caseload shift between the projected number of legal immigrant children (decrease of 3,065) and the number of federally eligible children (increase of 3,065). **These caseload adjustments will result in a decrease of \$2.4 million (increase of \$462,000 General Fund and \$1.181 million Tobacco Settlement Fund) in the current year. S**

Subcommittee Staff Recommendation: The Subcommittee staff has raised no issues with this proposal and recommends **approval.**

ISSUE “B”—Budget Year Adjustment—Children’s Program

Governor’s May Revision for 2002-03: The May Revision proposes total expenditures of **\$670.7 million (\$20.3 million General Fund, \$229.3 million Tobacco Settlement Funds, \$409.7 million federal funds, and \$11.5 million in Reimbursements, primarily from the DHS)** for the program. **This reflects a net increase of \$21.4 million** (increase of \$20.3 million General Fund, increase of \$15.6 million federal funds, increase of \$2.4 million in Reimbursements from the DHS, and a decrease of \$17.3 million Tobacco Settlement Funds) **compared to the proposed January budget.**

The primary adjustment for the program pertain to (1) a caseload shift, and (2) a cost adjustment for health, dental and vision plans.

Caseload Adjustments: The May Revision assumes that 623,712 children will be enrolled as of June 30, 2003. This reflects a decrease of 20,260 children compared to the proposed January budget, as noted in the chart below.

2002-03 Caseload (Children & % of Poverty)	Revised Estimated Total (As of June 30, 2003)	May Revision Compared with January
Up To 200%	600,305	9,473
201-250%	121,343	1,768
Legal Immigrants	23,001	-9,473
CHDP Shift (*CHDP restored & Gateway begins 4/1/03)	406	-20,260*
TOTALS	623,712	-20,260

The proposed caseload shifts are really technical adjustments. The Governor’s January budget had assumed that 20,666 children would be shifted from the CHDP Program (which the Administration had proposed to eliminate). For the May Revision, the Administration has proposed a “CHDP Gateway” and is restoring the CHDP Program (to be discussed under the DHS item). **As such, the MRMIB is assuming that 406 new enrollees will come in through the CHDP Gateway to the HFP.** Under this proposal, children “per-enrolled” in the CHDP Program will be immediately eligible for up to two months, for a CHDP health assessment and for comprehensive medical care provided through the HFP.

In addition, the other caseload shift (i.e., between the “up to 20 percent” category and the legal immigrant category) reflects updated data based on the current year information.

Cost Adjustment for Health, Dental And Vision Plans: The May Revision reflects an increase of 4.6 percent in the average monthly rate for health, dental, and vision insurance coverage based on re-negotiated contracts approved by the MRMIB Board (in their March 6, 2002 hearing). As such, an average cost of \$88.72 for health, dental and vision plan payments per child per month (eligible children aged 1 to 19 years) is assumed. (The actual monthly rate paid

to each plan is based on MRMIB negotiating with the participating plans through a model contract process.)

The May Revision contains a total of \$27.9 million (\$10.7 million General Fund and \$19 million federal funds) for this rate adjustment, effective as of July 1, 2002.

Other Adjustments: The May Revision also assumes the following key adjustments:

- **HFP to Medi-Cal Bridge--Delay:** The May Revision **postpones implementation** of the bridge from March 2002 to **July 1, 2002**. Under this bridge, **children are provided with two months of continued eligibility in the HFP when they are transitioning to Medi-Cal coverage**. This “bridge” will take effect when the HFP determines at annual eligibility review that the family’s income qualifies the child for no-cost Medi-Cal coverage. **(This is part of the state’s HFP Waiver.)**
- **Single Point of Entry (SPE) Modifications for CHDP “Gateway”:** The May Revision reflects an increase of **\$552,000** (\$275,000 General Fund) for **(1)** single point of entry applications forwarded to County Welfare Offices (i.e., \$124,000), and **(2)** one-time system modifications (\$425,000).

Subcommittee Request and Questions: The Subcommittee has requested for the MRMIB to respond to the following questions:

- **1.** Please provide a **brief summary** of the propose **May Revision changes**, focusing on the key adjustments—rate increase, CHDP “Gateway” changes, and the delay in the bridge.

Subcommittee Staff Recommendation: Subcommittee staff recommends for the Subcommittee to adopt the May Revision, as outline above.

ISSUE “C”—No Parental Enrollment per the Waiver

Background: The federal government approved the state’s Healthy Families Program (HFP) Waiver on **January 25, 2002**. The approved Waiver would have extended HFP eligibility to uninsured parents, including legal immigrants, of children eligible for **(1)** the HFP with family incomes up to 200 percent of the federal poverty level, and **(2)** the Medi-Cal for Children Program (this includes several eligibility categories) up to 200 percent of the poverty level.

In a January 29, 2002 letter, Susan Kennedy directed the Managed Risk Medical Insurance Board (MRMIB) to take the necessary administrative steps to implement the program such that when funds become available to enroll parents they can be enrolled quickly. **As such, certain pre-enrollment functions were undertaken in anticipation of budget year enrollment for parents.**

Parental Waiver—Deferred until July 1, 2003 & Relation to 1931 (b) Issue: Due to fiscal constraints, the Administration has proposed to defer implementation of parental enrollment until July 1, 2003. As such, *no funds* have been appropriated for local assistance.

It should be noted that based on information obtained by Subcommittee staff, an increase of **about \$92.5 million (General Fund)** would be needed assuming a July 1, 2002 implementation date. **Total expenditures would be about \$253 million (\$92.5 million General Fund and \$160.5 million federal funds).**

It should also be noted that the federal CMS Terms and Conditions for the Parent Waiver requires the state to continue our **existing 1931 (b) Program** in order to receive federal funds for the Parent Waiver.

Parental Waiver—May Revision Proposal for Handbooks and System Changes: Even though the May Revision defers implementation of the Waiver until July 1, 2003, the Administration is proposing to expend \$1.5 million (\$589,000 Tobacco Settlement Funds) for HFP hand books and pre-enrollment materials.

The MRMIB states that this one-time expense is needed prior to the time that parents are included in the HFP because they need to do a special mailing to the parents of enrolled children. Subcommittee staff concurs with this statement; **however, the mailings (including the pre-enrollment” packet) do not need to be done until about 6 weeks before the opening coverage date.** Therefore, the mailing would not need to be done until May 2003.

As such, Subcommittee staff recommends to delete these funds from the budget since it is premature at this point in time to assume that these mailings would be done given the current fiscal situation.

Subcommittee Request and Questions: The Subcommittee has requested the MRMIB to respond to the following question:

- 1. Why is \$1.5 million (\$589,000 Tobacco Settlement Funds) proposed for handbooks and pre-enrollment packets when the Administration has deferred implementation until July 1, 2003?

Subcommittee Staff Recommendation: It is recommended to delete the \$1.5 million (\$589,000 Tobacco Settlement Funds) funds and expend them for other uses, such as to backfill for the Rural Demonstration Projects.

Budget Issue: Does the Subcommittee want to adopt or modify the staff recommendation?

2. Rural Demonstration Projects

Background--Overall: The Rural Health Demonstration Projects, enacted into law in 1997, are vital projects and have been used to develop and enhance existing health care delivery networks for special populations and to address geographic access barriers. For the past three fiscal years, the annual appropriation has been \$6 million (\$ 2 million General Fund) with funding equally split between the two areas—special populations, and geographic access.

Funding for the **special populations projects** is made available to projects located in rural and urban communities that have high concentrations of migrant and seasonal farm workers, and workers in the fishing and forestry industry and American Indians.

Funding for **geographic access projects** is made available to projects located in Rural Medical Services Study Areas (area with a population density of less than 250 persons per square mile and with less than 50,000 people within the area).

Specifically, the funds have been used to extend community clinic hours, expand telemedicine applications, provide bilingual specialty health care services, provide mobile medical services and dental services, provide health education and nutrition counseling, and rate enhancements to increase HFP provider networks in remote areas, including San Bernardino and Riverside counties.

For the current year, 28 projects were funded under the special populations strategy and 29 projects were funded under the geographic access strategy. These projects were suppose to be funded on a two-year basis (i.e., through June 30, 2003).

The Rural Demonstration Projects have been highly successful and have received nationwide accolades for their effectiveness and innovation.

Governor's Proposed Budget: The budget proposed to eliminate the projects.

Prior Subcommittee Hearing: In the March 11 hearing, the Subcommittee placed \$2 million (General Fund) on the priority to fund list to restore the funding for the projects.

Governor's May Revision: The May Revision proposes to provide \$271,000 (\$94,000 Tobacco Settlement Funds) to continue a small component of the Rural Health Demonstration Projects. Specifically, it proposes to continue an existing project that provides migrant farm workers with health, dental and vision coverage (special combination that is portable statewide). MRMIB offers this portable plan combination using rate enhancements that are provided through the Rural Health Demonstration Projects.

Subcommittee Staff Comment: Subcommittee staff recommends to adopt this proposal and to consider redirecting additional state funds—either General Fund or Tobacco Settlement Funds—towards the overall effort to restore the Rural Health Demonstration Projects—both the special population and geographic access areas, if feasible.

Budget Issue: Does the Subcommittee want to **(1)** adopt the May Revision proposal, and **(2)** provide additional funds for the Rural Health Demonstration Projects?

IV. 4260 Department of Health Services—Public Health and Medi-Cal

ITEMS FOR CONSENT (Items 1 to)

1. Trailer Bill Language—Continue the Medicare Discount Drug Program

Trailer Bill Language Proposal and Subcommittee Staff Recommendation: The Administration is proposing to eliminate the sunset date for the Medicare Discount Drug Program created by SB 393 (Speier), Statutes of 1999. Generally, this statute requires pharmacies in the Medi-Cal Program to use the Medi-Cal reimbursement rate as the prescription price for a Medicare beneficiary.

Subcommittee Staff Recommendation: It is recommended for the Subcommittee to **adopt** this language.

2. Trailer Bill Language—Continue Coverage to Medi-Cal Children Who Receive Adoption Assistance

Background and Trailer Bill Language Proposal: The Administration is proposing to eliminate the sunset date for these children to continue to obtain health care services.

Subcommittee Staff Recommendation: It is recommended **to adopt this language.**

3. Rescind Special Fund Adjustments—Trailer Bill Language

Background: There are **two special funds**—Lupus Foundation of American, California Chapters Fund and the California Lung Disease and Asthma Research Fund—which are used to provide small amounts of funding for education and research related to Lupus, and for research related to certain types of lung diseases, including asthma and TB.

Prior Subcommittee Action: In the May 6th hearing, the Subcommittee adopted technical changes in order to facilitate the distribution of the funds for direct allocation to the eligible parties—namely the Lupus Foundation of America and the American Lung Association of California. Specifically, the language utilizes the State Controller to allocation the funds in lieu of the DHS.

Subcommittee Staff Recommendation: Since the May 6th hearing, it has come to the attention of staff that there may be a policy bill to make other changes to this statute. **As such, it is recommended to rescind the language and allow for the policy committees to review any legislation that may be forthcoming.**

4. Rescind Action on Southern California Laboratory Study

Background and Governor's May Revision: A Finance letter proposed to spend \$150,000 (General Fund) for a study of the Southern California Laboratory that would have identified (1) the DHS' current laboratory occupancy including existing program, workload, staff, and equipment, (2) future staff, workload, equipment and space requirements, including all assumptions for increased growth, (3) determine whether the existing laboratory can meet current and future workload needs, and (4) identify alternatives for meeting current and future laboratory needs.

The May Revision proposes to rescind this funding request.

Subcommittee Staff Recommendation: Staff concurs with the May Revision and recommends deletion of the \$150,000 (General Fund).

5. Delete Richmond Laboratory Campus Information Technology Support

Background and Governor's January Budget: The Governor's January budget proposed an increase of \$933,000 (General Fund) for a variety of information technology products—equipment, fiber testing, maintenance contract—as well as information technology support items—project management, staff training, data center services—for the Richmond Laboratory.

Subcommittee Recommendation: Due to the continued weakness in the stock market and economy, Subcommittee staff recommends to delete the \$933,000 General Fund.

6. Licensing and Certification—Per Bed Fee Adjustments

Background and Governor's May Revision: The Health and Safety Code sets forth the authority and methodology to assess fees on health care facilities. The DHS Licensing and Certification Program collects fees from other categories of providers pursuant to various other statutes or regulations. Some of these fees are flat rates set in law and others are adjusted annually in the Budget Act.

The largest source of fees comes from long-term care facilities and hospitals.

Based on a series of adjustments, as outlined in the *annual* DHS produced "Health Facility License Fee Report, the fees are being adjusted. These adjustments need to be captured in Budget Bill Language that is updated twice (in the January budget and in the May Revision). According to the DHS and the DOF, these adjustments have been thoroughly discussed with the industry.

The May Revision proposes to make the following changes:

Licensing Per-Bed Fees		
	2001-02 Budget Act	2002-03 Proposed
Hospitals¹	\$94.95	\$120.56
Long-Term Care Facilities²	\$283.27	\$199.55
¹ Includes general acute care, acute psychiatric, special, general acute care rehabilitation, and chemical dependency recovery hospitals.		
² Includes skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the developmentally disabled.		

Subcommittee Staff Recommendation: It is recommended to **adopt** the proposed L&C per bed adjustment as noted above.

7. Adjustment to Los Angeles—Statewide Automated Welfare System and LEADER

Governor’s May Revision: The May Revision proposes to redirect \$10 million (\$5 million General Fund) in the budget year for application modifications to **incorporate Medi-Cal Section 1931 (b) and other program changes into the SAWS LEADER System.** The savings proposed to be redirected are due to the discontinuance of the Los Angeles County legacy automation system that was replaced by the SAWS Leader system. This proposal requires Budget Bill Language for implementation and is as follows:

“Of the amount appropriated in this item, \$10,044,000 for the Statewide Automated Welfare System Los Angeles Eligibility, Automated Determination, Evaluation and Reporting Consortium shall not be encumbered until the DOF reviews and approves a special project report or equivalent document which specifies the application modifications to be completed and includes the vendor’s estimate of the funding needed to complete the modifications. At the time that it approves the funds availability, the DOF shall provide written notification to the chairperson of the fiscal committees of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee.”

Subcommittee Staff Recommendation: It is recommended to **adopt** this proposal.

8. Alignment of Tobacco Settlement Funds --Technical

Governor's May Revision: The May Revision proposes to realign General Fund and Tobacco Settlement funds. Specifically, it proposes to reduce Item 4260-101-0001 (Medi-Cal local assistance—General Fund) by \$81.8 million and increase Item 4260-101-0320 (Medi-Cal local assistance—Tobacco Settlement Fund) by the same amount.

Subcommittee Staff Recommendation: It is recommended **to concur with this fund shift.**

9. Trailer Bill Legislation—Memorandum of Understanding Between Departments

Governor's May Revision: The May Revision is requesting adoption of **uncodified trailer bill** language as noted below (self explanatory really):

The Department of Health Services may reimburse other California State Departments for their allowable Medi-Cal costs via a Memorandum of Understanding between the department and the California State Department receiving the reimbursement. The Memorandum of Understanding shall take the place of a contract or interagency agreement between the departments and the Department of Health Services shall not be required to have either a contract or interagency agreement with the other State Department in order to pay that Department for Medi-Cal allowable costs. The Memorandum of Understandings shall provide the conditions for payment including all performance and financial standards that the Departments shall meet. The Memorandum of Understanding may be modified with mutual agreement of the Departments. Reimbursable amounts shall only be made in accordance with appropriations provided the Department of Health Services and shall meet the other State and federal requirements for payments.

Subcommittee Staff Recommendation: It is recommended **to adopt the uncodified trailer bill** language.

10. Postage Rate Increase and Funding Quandary

Governor's May Revision: The May Revision requests **an increase of \$238,000** (\$39,000 General Fund and various special funds) to increase the state operations line item for postage due to the US Postal Service raising the rate 3 cents as of June 30, 2002.

Subcommittee Comment and Recommendation: It should be noted that two of the special funds referenced for funding—the Health Statistics Fund and the Genetic Disease Testing Fund—do not have any anticipated fund balance for the budget year. In fact, the DOF swept \$4.2 million from the Health Statistics Fund to backfill for General Fund, and the Genetic Disease Testing Fund has at least an \$8 million deficiency. This deficiency issue was discussed at length in the May 6th Subcommittee hearing. Therefore, how could these funds be used? It's a quandary.

It is recommended **to deny the postage rate proposal.**

11. Local Mandate

Governor's May Revision: Due to the decline in available General Fund resources, the May Revision proposes to reduce **by a total of \$7.7 million** the appropriation for mandated programs within this Item. These are as follows:

• Sudden Infant Death (SIDS) (Chapter 268/91)	\$341,000
• SIDS notices	\$36,000
• Pacific Beach safety (CH 916/92)	\$74,000
• SIDS autopsies (CH 955/89)	\$1.969 million
• AIDS Search Warrants (CH 1088/88)	\$946,000
• Medi-Cal beneficiary death notices	\$104,000
• Inmates AIDS Testing (CH 1597/88)	\$1.307 million
• Perinatal services for alcohol/drug (CH 1603/90)	\$2.829 million
• SIDS Training for Firefighters (1111/89)	\$118,000

Subcommittee Staff Recommendation: It is recommended to **adopt this proposal.**

12. Childhood Lead Poisoning Tracking and Control (RASSCLE)

Background: The DHS blood lead test result tracking system (RASSCLE) serves both the Childhood Lead Poisoning Prevention Program and the Occupational Lead Poisoning Prevention Program.

Governor's May Revision: The May Revision requests **(1)** an increase of \$503,000 (Childhood Lead Poisoning Prevention Fund), and **(2) a reappropriation of \$662,000 (Childhood Lead Poisoning Prevention Fund) to complete new information technology requirements. Of the total amount \$1.166 million (Childhood Lead Poisoning Prevention Fund) is to be used for an external contract.**

According to the DHS, the project has experienced delays due to control agency requirements and changes in hardware and software requirements.

Legislative Analyst's Office Recommendation: The LAO recommends approval of the May Revision and adoption of the **following Budget Bill Language** (Item 4260-001-0080):

“It is the intent of the Legislature that the department prepare a Special Project Report and receive approval of that report from the Department of Finance prior to continued development of the RASSCLE II Project.”

Subcommittee Staff Recommendation: It is recommended **to concur with the LAO.**

13. Domestic Violence Shelters

Governor's May Revision: The DHS has identified **\$900,000 (Domestic Violence Training Funds)** to be used to continue funding in the budget year for ten domestic violence shelters that received current-year funding through the “Nine West Legal Settlement”. This will enable all of these shelters to receive their same level of funding in the budget year.

Subcommittee Staff Recommendation: This is a very creative proposal by the DHS and is recommended for **approval.**

14. Reduce Ryan White CARE Act—Minority AIDS and Emerging Communities—Less Federal Funds (Technical Adjustment)

Governor's January Budget: The January budget proposed **an increase of \$795,000 in federal funds to the Office of AIDS.** Of this amount, \$663,000 was for the Minority AIDS Initiative for Outreach and \$132,000 was for the Emerging Communities focus (Fairfield-Vallejo-Napa metropolitan statistical area).

Governor's May Revision: Due to a reduction in the federal Ryan White CARE Act funds, the May Revision proposes to **(1) reduce by \$20,000 the amount for the Minority AIDS Initiative and (2) eliminate the \$132,000 for the Emerging Communities focus.**

Subcommittee Staff Recommendation: It is recommended **to adopt the proposal.**

15. Adult Influenza Vaccine Purchase

Governor's May Revision: The May Revision proposes **an increase of \$2.6 million (General Fund) to procure the annual adult influenza vaccine as required by Health and Safety Code Section 104900.**

Subcommittee Staff Recommendation: It is recommended **to adopt this proposal.**

16. Federal Project—Rape Prevention

Governor's May Revision: The May Revision proposes an increase of almost **\$5 million (federal funds—from Center for Disease Control) to support the Rape Prevention and Education Program. These funds are to be allocated to California's 84 Rape Crisis Centers.**

The Administration notes that the Office of Criminal Justice Planning (OCJP) used to be allocate these funds but since the federal government has made some funding changes, the DHS must operate the project.

Subcommittee Staff Recommendation: It is recommended **to adopt this proposal.**

17. California Children Services (CCS) Program—Caseload and Related Adjustments

Background: The California Children’s Services (CCS) Program provides diagnostic and treatment services, medical case management, and physical and occupational therapy health care services to children under 21 years of age with CCS-eligible conditions (e.g., chronic medical conditions, severe genetic diseases, infectious diseases producing major sequelae, and traumatic injuries) from families unable to afford catastrophic health care costs.

Governor’s May Revision: The May Revision proposes to provide total funding of \$148.1 million (\$71.6 million General Fund, \$4.7 million federal Title V funds, and \$250,000 in fees) for an increase of \$11.5 million (\$4.4 million General Fund). This adjustment is to reflect caseload changes and related adjustments.

Subcommittee Staff Recommendation: It is recommended to **adopt the proposal.**

18. Child Health Disability Prevention (CHDP) Program—Restore Baseline Program

Background: The Governor’s January budget proposed to **eliminate the CHDP Program**. As part of this proposal, the Governor requested that Director Bonta’ convene stakeholder groups to re-craft the program. Through these efforts, a revised proposal was developed—the CHDP “Gateway” proposal. (The CHDP “Gateway” proposal is discussed under the Public Health area, below.)

As part of the overall packaged developed, it was decided to restore the existing CHDP Program.

Governor’s May Revision: The May Revision proposes to **(1)** restore the CHDP “baseline” program, and **(2)** reflect a decrease in caseload and related item adjustments.

Specifically, the May Revision proposes a net increase of \$103.5 million (\$92.6 million General Fund/Tobacco Settlement Fund and \$10.9 million other various funds) to restore the baseline program and reflect caseload decreases (due to some children shifting to Medi-Cal and Healthy Families). This funding level includes the restoration of 6 positions at \$436,000 (\$207,000 General Fund).

Subcommittee Staff Recommendation: It is recommended to **adopt the proposal to restore the baseline program.**

19. Rescinding Increase for the Expanded Access to Primary Care (EAPC)

Background and Governor's May Revision: As part of the Administration's January Budget proposal to restructure the Child Health and Disability Prevention (CHDP) Program, **an increase of \$17.5 million (General Fund) was proposed for the EAPC Clinics** to provide some health care services for children to be eliminated from the CHDP Program. **However, since the CHDP is not now going to be eliminated, the Governor's May Revision is rescinding the proposed augmentation amount. In addition, the Administration cites the continued weakness in the sock market and economy.**

Subcommittee Staff Recommendation: It is recommended **to adopt this proposal.**

20. Revert Quality Awards Program Funding

Governor's May Revision: The May Revision **proposes to revert \$1 million (General Fund)** as the result of receiving additional federal funding for the Quality Awards Program. This adjustment will be amended into the Budget Bill Language pertaining to this item.

Subcommittee Staff Recommendation: It is recommended **to adopt this proposal.**

21. Alignment of Tobacco Tax Revenue –Technical Adjustment for Breast Cancer Early Detection Program

Governor's May Revision: The May Revision proposes to realign General Fund and the Breast Cancer Control Account (i.e., tobacco tax revenue from B. Friedman legislation of 1994) due to a projected decline in tobacco tax revenue. Specifically, it proposes to reduce Item 4260-001-009 (Breast Cancer Control Account) by \$600,000 and increase Item 4260-001-0001 (General Fund) by the same amount.

Subcommittee Staff Recommendation: Due to the critical nature of the program, it is recommended **to adopt this proposal.**

22. Nuclear Planning Assessment Adjustment--Technical

Governor's May Revision: The May Revision proposes **to increase by \$13,000 (Nuclear Planning Assessment Special Account) and reduce by the same amount General Fund support** to account for a Price Index calculation increase, as required by the Radiation Protection Act

Subcommittee Staff Recommendation: It is recommended **to adopt this proposal.**

23. Maternal and Child Health Fund Shift

Governor's May Revision: The May Revision proposes to shift (one-time only) \$4 million federal Title V Maternal and Child Health block grant funds to backfill for General Fund support in the Childrens Medical Services Branch. These were unexpended funds from prior fiscal years.

Subcommittee Recommendation: It is recommended to adopt the proposal.

ITEMS FOR DISCUSSION—

A. Medi-Cal Program

1. Medi-Cal Baseline Estimate Package

Background on Governor's May Revision: The Medi-Cal Program local assistance expenditures for 2002-03 are estimated to be **\$22.5 billion (\$9.2 billion General Fund), or a net decrease of almost \$1.1 billion (\$746.4 million General Fund).** In addition to these expenditures, a total of \$3.307 billion (\$64 million General Fund) is provided to fund payments for Disproportionate Share Hospitals, voluntary governmental transfers for supplemental hospital funding and capital debt projects for hospitals.

Of the proposed **\$2.5 billion** amount, **(1)** \$20.8 billion is for Medical Care Services, **(2)** \$1.354 billion (\$400 million in state funds) is for County Administration, and **(3)** about \$332.3 million is for the Fiscal Intermediary.

Subcommittee Staff Recommendation for Baseline Adjustments: The Governor's May Revision contains the following key baseline adjustments in which the Subcommittee staff has raised no issues.

A. Accelerated Enrollment—Waiver: Under the HFP Waiver, applicants who apply for Medi-Cal and/or the HFP through the single point of entry will receive accelerated enrollment based on the income screen done at the single point of entry.

Further, when the Administrative Vendor (i.e., Single Point of Entry processing agent) identifies a potential "split-family" (i.e., some family members eligible for Medi-Cal while others are eligible for the HFP), the family members being referred to Medi-Cal will be provided with immediate temporary coverage under the Medi-Cal fee-for-service system pending County Department of Social Services final determination of eligibility. A beneficiary identification card would be mailed to the family by the Administrative Vendor, and the beneficiary would be followed/identified using the Medi-Cal Eligibility Data System (MEDS).

The May Revision assumes an implementation date of July 1, 2002, which reflects a four month delay. Expenditures of \$10.8 million (\$5.4 million General Fund) to reflect two months of services provided to persons who would not have been otherwise eligible.

B. Emergency Services and Supplemental Payment Funds for Hospitals ("SB 1255"): A total of almost \$1.378 billion (special funds) is available to reimburse select hospitals having contracts with the California Medical Assistance Commission (CMAC) to provide enhanced inpatient services. The CMAC has advised that they will be expediting this process.

C. Medical Education Funds for Teaching Hospitals: A total of \$72.4 million (federal funds), is available for certain teaching hospitals for services relating to inpatient clinical teach and medical education activities that are provided to Medi-Cal recipients. (The Subcommittee approved a two-year extension to the statute, in lieu of the Administration's one-year extension, in its April 1 hearing. This action remains.)

D. Santa Barbara Health Authority County Organized Health: The May Revision provides an increase of \$8.9 million (\$4.5 million General Fund) to provide for an actuarially determined rate adjustment for this managed care health plan.

E. Hospital Outpatient Services Settlement Agreement: The settlement agreement rate increase of 3.33 percent effective as of July 1, 2002 remains (for the next three years thereafter, and in addition to the baseline 30 percent rate adjustment effective July 1, 2002). The state's portion of the lump sum payment-- \$175 million—will be paid out very shortly.

F. Supplemental Wage Rate Adjustment for Long-Term Care: The May Revision provides a total of \$42 million (\$21 million General Fund), as adopted via trailer bill legislation associated with the Budget Act of 2001, to provide increased funding for providers which have a collective bargaining agreement or contract to increase salaries, wages, or benefits for certain staff.

G. Long-Term Care Rate Adjustment: An increase of \$18.2 million (\$9.1 million General Fund) is provided in the May Revision to reflect updated data received through the standard cost reports. It should be noted that the rates for some long-term care facility have been frozen (in lieu of a decrease), while others are receiving a slight increase. This overall adjustment will be update in January, 2003 to reflect adjusted data, as is the long standing historical practice for this item.

H. CalWORKS—Restriction Codes: Presently, CalWORKS recipients who refuse to cooperate with child support and medical support enforcement have their grants reduced by 25 percent and are officially denied or discontinued from the Medi-Cal Program. Effective in June 2002, restriction codes will be instituted in MEDS. A reduction of \$8.9 million (\$4.5 million General Fund) is therefore assumed to reflect Medi-Cal savings obtained when CalWORKS recipients (who also receive Medi-Cal) do not meet their requirements and are denied or discontinued from Medi-Cal. This conforms to existing statute.

I. Child Health Disability Prevention (CHDP) Program Gateway—Pre-enrollment and Medi-Cal Eligibles (to be discussed more thoroughly in the Public Health item, below): An increase of \$4.4 million (\$2.1 million General Fund) is proposed in the Medi-Cal item to (1) provide for pre-enrollment (up to two months of comprehensive coverage, and (2) provide full-scope services for a portion of children to receive services under the Medi-Cal Program.

Specifically, \$4.3 million (\$2 million General Fund) is provided to fund 9,357 children via the pre-enrollment health care service period, and \$150,000 (\$75,000 General Fund) is for services provided to 1,530 children expected to become eligible for Medi-Cal through the gateway process.

J. Medicare HMO Premiums: The May Revision continues to provide \$35.9 million (\$17.9 million General Fund) to fund the Medicare HMO premium for low-income elderly individuals who are dually eligible (Medicare and Medi-Cal). The DHS states that they expect to “cost avoid” about \$8.1 million (total funds) in the 2002 calendar year in pharmacy costs alone.

Budget Issue: Does the Subcommittee want to adopt the base estimate, including technical adjustments proposed by the DOF? This action would align the baseline budget to reflect caseload and all other related adjustments. Other issues, as discussed below, will be discussed individually.

2. LAO Recommendation—Medi-Cal Caseload Adjustment

LAO Comment and Recommendation: The LAO has reviewed caseload information from February 2002 through June 2002 and believes that it is not growing as rapidly as the DHS projects. Specifically, they contend there should be some “flattening” from the initial caseload growth from elimination of the Quarterly Status Report and implementation of continuous eligibility in January 2001.

Their analysis indicates that the Medi-Cal caseload in the current year is overestimated by 37,000 and that this continues through to the budget year. **As such they are recommending to delete \$46.6 million (\$23.3 million General Fund) in both the current-year and budget year.**

Subcommittee Staff Comment: Due to certain technical aspects regarding the Medi-Cal Program, and the closing out of the current fiscal year, it is recommended to implement the LAO recommendation for the proposed budget year **and not to reflect any current year adjustment.**

As such, it is recommended to delete \$46.6 million (\$23.3 million General Fund) for 2002-03 based on the LAO’s caseload analysis.

Subcommittee Request and Questions: The Subcommittee has requested the LAO and Administration to respond to the following questions.

- 1. LAO, Please briefly describe your recommendation.
- 2. Administration, Please briefly provide your perspective.

Budget Issue: Does the Subcommittee want to modify the Administration’s assumption regarding caseload adjustments?

3. Proposed Rescission of Section 1931 (b) Expansion

Background—1931 (b) Category of Medi-Cal Eligible: The 1996 federal welfare reform law eliminated the “categorical” link between Medicaid (Medi-Cal) and welfare.

As such, a new eligibility category was created known as “Section 1931 (b)” (in reference to the federal law section). **The concept behind this federal policy was to maintain health coverage for families that leave welfare for work, and to make it available for working poor families.** These policies stem from a desire to protect and improve the health of poor families—especially children—and to eliminate the incentive to be on welfare in order to receive health care coverage.

Section 1931 (b) required states to grant automatic (categorical) eligibility to anyone who would have met the income, resource and deprivation rules (such as children with an absent, decreased, incapacitated, or unemployed parent) of the AFDC Program as it existed on July 16, 1996 (date selected by Congress).

Among other things, the law also granted states flexibility to adopt more progressive income or resource standards, including elimination of the so- called “100-Hour Rule which effectively enabled Section 1931 (b) families as well as two-parent families.

“100-Hour Rule”: Under the old AFDC program (and therefore Medicaid) two-parent families were *ineligible* if the principle wage earner in the families worked more than 100 hours in a month (23 hours per week).

In order to encourage work, California obtained a federal waiver of this limit for families in the AFDC Program (after they initially qualified for aid). **The state dropped this 100-hour rule for families returning to work, or experiencing an increase in their hours of work, who are recipients of Medi-Cal benefits through the Section 1931 (b) program (This was done through an AFDC Title IV Waiver from before) . However, the state has retained the rule for new 1931 (b) applicants (i.e., people applying for Medi-Cal) and the Medically Needy Program.**

Federal regulations (adopted in August 1998) allowed states to eliminate the 100-hour rule limitation for all two parent families. As noted by the federal government at that time, this would allow states to eliminate policies they believed to be inequitable and a disincentive to family unity.

Background—Budget Act of 1999: In the **Budget Act of 1999** and subsequent trailer bill legislation, funds were appropriated which **(1)** increased the 1931 (b) income limit to 100% of the federal poverty level, **and (2)** revised the deprivation based on unemployment to include families with earned income below 100 percent of poverty.

Inclusion in the Medi-Cal Program meant that the entire family could receive services from the same health care organization in a comprehensive manner. Further, it likely encouraged parents to enroll their children in Medi-Cal as well.

Governor’s May Revision: The May Revision **proposes to (1)** roll-back the increase in the 1931 (b) income limit of 100 percent of the federal poverty level to the lower Medi-Cal Maintenance Need income level, **and (2)** restores the 100-hour employment deprivation rule for qualification to the Section 1931 (b) Program.

Effectively this means that very low-income, working family members will be joining the ranks of the growing uninsured in California.

The May Revision assumes savings of \$184.2 million (\$92.1 million General Fund) by eliminating 146, 190 (average monthly eligibles) individuals from the program.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions.

- **1. Please summarize the proposal and explain whom is affected (i.e., disenrolled from Medi-Cal).**
- **2. What would the 1931 (b) Medi-Cal “applicant” poverty threshold be under the proposed May Revision?**

Budget Issue: Does the Subcommittee want to reject the proposal?

4. Governor’s Proposed Reinstatement of Quarterly Status Reporting (Parents)

Background—Budget Act of 2000: In the Budget Act of 2000 and corresponding trailer bill language, the **Quarterly Status Reporting process was eliminated, effective as of January 1, 2001. The Governor, who proposed this change in his May Revision that year, as well as the Legislature, believed that elimination of the reporting process was important for several reasons.**

First, these Medi-Cal recipients are low-income wage earners—working people who have left CalWORKS and need medical coverage. **Their circumstance is not likely going to change significantly and if it does, the recipient is required to report a change within 10 days anyway.** Second, the action was an attempt to simplify Medi-Cal and make it operate more like a regular health insurance plan (i.e., employer-based model). Third, it was intended to reduce, over time, Medi-Cal Administration costs in order to make the program more efficient and effective.

Prior to this change, Medi-Cal recipients who did *not* receive cash aid (such as CalWORKS) were required to complete a detailed form about income, family members and other personal information every three months (quarterly), even if there were no changes in the families circumstance. Further, Medi-Cal coverage for the recipients was terminated if the quarterly form was not returned. Subsequently, many families lost their Medi-Cal coverage simply because they do not return the burdensome quarterly report.

Governor's May Revision: The May Revision proposes to reinstate the **Quarterly Status Report as of October 2002** in order to save General Fund resources. As such, it is assumed that \$310.8 million (\$155.4 million General Fund) is "saved" by eliminating 246, 667 (average monthly) existing Medi-Cal eligibles.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions.

- **1. Please briefly summarize the proposal, including a description of the individuals who may lose their eligibility if no Quarterly Status Report is provided.**
- **2. Will Medi-Cal redeterminations** be done if new information is provided on the Quarterly Status Report? Please explain.
- **3. Please clarify whether "SB 87" requirements apply** to the Quarterly Status Report.
- **4. What will the DHS do to continue Medi-Cal under SB 87 if a Quarterly Status Report is not returned or is incomplete?**

Budget Issue: Does the Subcommittee want to reject the proposal?

5. Proposed Reduction of 20 Percent to Medi-Cal County Administration

Background: Counties are responsible for conducting Medi-Cal eligibility processing and enrollment functions. The state provides funding (General Fund and federal funds) for this purpose based on four general components: (1) recent caseload data, (2) estimated policy changes that affect eligibility processing or related functions, (3) staff training and development, and (4) cost-of-doing business adjustments.

Through the budget process, the state generally provides counties with cost-of-doing business adjustments. These adjustments are intended to account for such factors as (1) increases in the cost of goods and services (such as office supplies and janitorial services), (2) expenses related to information technology upgrades or replacements, (3) adjustments to salaries, and (4) increases in facility operation costs.

Current-Year & Governor's January Budget: For both the current-year and budget year, the cost-of-doing business adjustments were eliminated. Cumulatively, this effectively under-funds the program by \$225 million (total funds). Only twice during the recession years of the early 1990's did the state not provide an adjustment for the cost-of-doing business and this deletion was reflected in the final Budget Act.

Governor's May Revision: The May Revision **proposes a 20 percent reduction, or an additional \$175.9 million (\$87.9 million General Fund) reduction.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS and County Welfare Directors Association to respond to questions as follows.

- 1. DHS, Please explain the proposed 20 percent reduction.
- 2. DHS, **Specifically what are the counties not suppose to do** in order to meet the reduction level? **What Medi-Cal eligibility functions are being eliminated or simplified?**
- 3. CWDA, Please explain the affect this proposal would have on Medi-Cal eligibility processing, enrollment, disenrollment and related matters.
- 4. CWDA, What level of lay-offs and related personal actions are anticipated with a reduction such as this?

Budget Issue: Does the Subcommittee **want to reject or modify the proposal?**

6. Express Lane Eligibility—Deferral of AB 59 (Cedillo) and SB 493 (Sher)

Background: Two laws were enacted—AB 59 and SB 493—during the Legislative Session of 2001 to simplify the Medi-Cal and Healthy Families Program eligibility process. Enactment was to occur as of July 1, 2002.

Governor's January Budget and Prior Subcommittee Action: The Governor's January Budget proposed to provide a total of \$51.6 million (\$25.8 million General Fund), for benefits, program changes and county administrative processing.

In a prior hearing, the Subcommittee adopted the budget proposal and clean-up language developed in tandem with the Administration, to facilitate implementation as of July 1, 2002. However, this was prior to the full recognition of the severe fiscal situation.

Governor's May Revision—Deferral: Due to the decline in the stock market and fiscal shortfall, the Administration proposes **to defer implementation until July 2005, and subsequently delete the \$51.6 million (\$25.8 million General Fund).**

Subcommittee Staff Recommendation: It is recommended to **(1) delete the \$51.6 million (\$25.8 million General Fund), and (2) adopt technical language changes as contained in the May Revision, except to change the deferral date to July 1, 2003, in lieu of the 2005 date.**

Budget Issue: Does the Subcommittee **want to adopt or modify the proposal?**

7. Medi-Cal Optional Benefits—Proposed Elimination

Background—“Optional” Benefits:

The list of Medical Supplies that would be eliminated would include items such as diabetic supplies, IV supplies, wound care supplies, asthma supplies incontinence supplies, contraceptive supplies, and ostomy/colostomy/Ileostomy supplies.

Legislature’s Historical Rejection of Proposal: Elimination of selected Medi-Cal Optional Benefits has been proposed on five prior occasions—1990, 1992, 1993, 1994 and 1995. **Even during these difficult fiscal times, the proposal was denied by the Legislature.**

Governor’s May Revision: The May Revision proposes to eliminate eight Optional Benefits, as noted in the chart below. **The proposal requires trailer bill legislation and assumes a July 1, 2002 effective date.**

Benefit To Be Eliminated	Total Proposed Reduction	General Fund “Savings”
Chiropractic	\$334,000	\$167,000
<i>Dental</i>	<i>\$420,340,000</i>	<i>\$210,170,000</i>
Podiatry	\$8,559,000	\$4,280,000
Independent Rehab Centers	\$31,000	\$16,000
Acupuncture	\$4,873,000	\$2,437,000
Occupational Therapy	\$26,000	\$13,000
Psychology	4172,000	\$86,000
Medical Supplies	\$91,643,000	\$45,822,000
TOTALS	\$526,000,000	\$263,000,000

Exempt from the proposal are children under 21 years of age, residents of long-term care facilities, and individuals with developmental disabilities.

Pregnancy Related Dental Services: In the Budget Act of 2001, preventive periodontal services and periodontal treatment for pregnant women was added to the scope of Medi-Cal benefits because it saves Medi-Cal funds by decreasing neonatal intensive care services. The Administration proposed this last year because it has been well documented that periodontal disease affects the embryo, often causing pre-term low birth weight babies. **These services could not be provided if Adult Dental services are eliminated.**

Subcommittee Staff Recommendation: It should be noted that the Administration’s savings estimate does *not* take into consideration any cost shifts to other covered Medi-Cal Program services. For example, denial of some medical supplies or Adult Dental benefits may result in increased emergency room visits for pain and other medical services. **In addition, there may be increased costs due to the delay in recipients receiving treatment and ultimately requiring more acute care services.**

Elimination of the Adult Dental Benefit represents **80 percent** of the total savings amount. As has been noted in previous years when this was proposed for elimination, in order to maintain

some modicum of access for children's dental services, adult services need to be maintained to have a viable network of providers.

In lieu of eliminating these benefits, Subcommittee staff recommends to implement selective cost containment measures as proposed by the Administration to slow the growth in the overall Medi-Cal Program. These issues are discussed below.

Budget Issue: Does the Subcommittee **want to deny, modify or adopt the Administration's proposal to eliminate selected Medi-Cal Optional Benefits?**

8. Dental Service Reduction

Background: Denti-Cal is primarily a fee-for-service dental program that provides dental services to children (mandated by federal law) and adults (at a state's option). Specifically, Denti-Cal provides outpatient and inpatient dental services that are "reasonable and necessary" for the prevention, diagnosis and treatment of dental disease, injury or defect.

Budget Act of 2000: In an effort to improve the Denti-Cal Program, the Budget Act of 2000 provided increased funding to allow for up to two office visits and two dental cleanings per year, as done in modern dentistry.

Prior to this action, only one office visit was reimbursed for the dentist (i.e., **only the initial examination** conducted by the Dentist **the first time the (same) Dentist say the patient**) and one dental cleaning was allowed. Additional office visits and dental cleanings would be allowed when deemed to be "medically necessary" **and** with prior authorization.

Governor's May Revision: The May Revision proposes to rescind the Budget Act of 2000 action and return to the one office visit (just the initial visit between the same patient and dentist) and one dental cleaning per year, unless approved via prior authorization. **This proposal requires trailer bill language.**

The May Revision assumes savings of \$7.9 million (\$3.9 million General Fund) from this proposal. Of this proposed savings amount, \$5.1 million is for reduced office visits (oral dental exams by the dentist) and \$2.8 million is for reduced dental cleanings.

It should be noted that the savings level only reflects savings attributable to the children's program since the Administration proposes to eliminate adult dental services as a Medi-Cal Optional benefit.

Subcommittee Staff Recommendation: Due to the fiscal situation, it is recommended to adopt the Administration's proposed trailer bill language to provide restored Adult Dental services, **then the savings level attributable to providing only one office visit and one dental cleaning is \$15.9 million (\$7.9 million General Fund).** Therefore, if the Subcommittee wants to restore this proposed cut, it will require that level of funding.

Budget Issue: Does the Subcommittee want to adopt or modify the proposal?

9. Rollback of Provider Rate Reduction (from Budget Act of 2000)

Background: Prior to 1997, rates in the Medi-Cal Program had not been increased since 1986. Since this time, through the leadership of the Senate, several targeted increases have been provided, including the following:

- Increased the rates paid for emergency room physicians (1997).
- Increased the rates paid for primary and preventive services provided by physicians to children and adults.
- Updated the relative value scale for certain procedures provided to children by physicians (1998).
- Increased the rates paid for Early Periodic Screening Diagnostic and Treatment (1998).
- Increased the rates paid for procedures conducted under the CCS Program (1999).
- Increased the rates paid for ambulance services (1998 and 1999).
- Adopted several nursing home rate adjustments (1997, 1998, 1999, 2000, 2001)
- Augmented the rates paid for tubal ligations (1999).
- Restored the 9.5 percent rate adjustment for anesthesia, surgery and radiology (1999).

In the Budget Act of 2000, most services provided under Medi-Cal received rate adjustments. These adjustments were allocated across the CPT codes based on discussions between the DHS and various provider organizations and representatives.

Governor's January Budget and May Revision: The Governor's January budget proposed a reduction of \$155.1 million (\$77.5 million General Fund), or a roll-back of about half of the rate increase provided in the Budget Act of 2000.

Due to the fiscal crisis, the Administration is proposing to rescind the entire rate increase that was provided two years ago. Enactment of this proposal would save \$236.2 million (\$118.1 million General Fund)

Prior Subcommittee Action: In the April 1 hearing, the Subcommittee **(1)** adopted the partial rate roll-back as proposed by the Administration, **(2)** placed a June 30, 2004 sunset date on the rollback, and **(3)** modified the Administration's proposed trailer bill to minimize the impact of these rate reductions on specialized health care services to women, in addition to long-term-care and children.

In a related matter, the Subcommittee rejected the Administration's proposal to increase and expand copayments. Under their proposal the Administration would increase certain copayment amounts and reduce provider rates by the amount of the copayments. In addition, it would require providers to bill recipients and collect the money in order to make up the difference.

The Subcommittee therefore rejected the proposed savings (or really provider rate reduction) of savings of \$61.2 million (\$30.6 million General Fund). This Subcommittee action remains.

Subcommittee Staff Recommendation on Roll-Back of Rates: In order to maintain other services within the Medi-Cal Program, staff recommends to **(1)** adopt the Administration's May Revision proposal to rescind the rate adjustment provided in the Budget Act of 2000, **(2)** maintain the **previously approved sunset date language (June 30, 2004)**, and **(3)** modify the previously adopted trailer bill regarding minimizing the impact of the rate reductions on certain populations **to conform with the Administration.**

Subcommittee Request and Questions: The Subcommittee has requested for the DHS to respond to the following questions.

- **1.** Please briefly describe the proposal, including the Administration's two pieces (adding new Section 14105.18 and uncodified piece).

Budget Issue: Does the Subcommittee want to adopt or modify the proposal?

10. Disproportionate Share Hospital Program—"State Administrative Fee"

Background--DSH: SB 855, Statutes of 1991, established the Medi-Cal Disproportionate Share Hospital (DSH) Payment Program to maximize federal funds and provide special payments to eligible hospitals which serve a disproportionate share of Medi-Cal and uninsured patients.

Funds obtained from public hospitals are transferred to the state (i.e., "Intergovernmental Transfer Funds") and used to obtain a federal match. **These funds are then allocated to eligible hospitals, including private hospitals who are restricted by federal law to providing any transfer funds, for expenditure (\$1.8 billion total funds for 2002-03).** These funds are intended to compensate hospitals for the vital services they offer as "safety net" providers.

Current-Year—State "Administrative Fee": Prior to obtaining the federal match, **the state acquires over \$29.7 million from the Intergovernmental Transfer Fund for expenditure in the Medi-Cal Program. The \$29.7 million transferred to the state is used to off-set General Fund dollars.** From the hospitals perspective, the effect of the "state fee" is to reduce the financial benefit of the DSH Program to eligible hospitals.

This "state fee" process began at the direction of Governor Wilson during the early years of the state's fiscal crisis and was intended to be a short-term solution for addressing the General Fund deficiency problem. **At its height in 1995, a total of \$239.7 million was transferred to the state to provide a General Fund backfill.**

Since this time, the Legislature has worked to reduce the "state fee" and return the funds to the hospitals. The Budget Acts of 1996, 1997, 1998, 1999 and 2000 have all reduced the fee by a total of about \$209 million over the five year period.

Governor's Budget Proposal and May Revision: The **January budget** proposed to increase by \$55.2 million (from the existing \$29.8 million **to a total of \$85 million**) the amount transferred to the Medi-Cal Program. At this time, the overall fiscal shortfall was believed to be about \$12.5 billion.

For the May Revision, the Administration proposes to increase the fee by *another* \$31 million for a total of \$116 million. They contend that this level is needed due to the continued weakness in the stock market and economy.

Prior Subcommittee Action: In the April 1 hearing, the Subcommittee adopted the January proposal of \$85 million **and** adopted trailer bill language to sunset the entire fee reduction as of June 30, 2004.

Subcommittee Staff Recommendation: In order to maintain other services within the Medi-Cal Program, it is recommended to **(1)** adopt the \$116 million (additional \$31 million) “state fee” level, **(2)** maintain the prior Subcommittee trailer bill language to sunset the entire fee as of June 30, 2004, and **(3)** adopt uncodified trailer bill language as follows:

“In light of the health care funding changes, notwithstanding any other provision of law, an adjustment of disproportionate share hospital (DSH) payments to classifications of hospitals is necessary to ensure the distribution of DSH payments among eligible public and private hospitals consistent with the distribution in the 2001-02 state fiscal year.”

Budget Issues: Does the Subcommittee want to approve or modify the proposal?

11. Medi-Cal Drug Program—Language Issues Only

Background On Medi-Cal Drug Program: Nationwide pharmaceutical costs are **the fastest growing component of all health care**. Generally, the growth is mainly due to technological advances in and cost of the development of new pharmaceutical products. Numerous states have recently enacted changes to their Medicaid Programs (Medi-Cal in California) in order to control costs.

California has historically had one of the least expensive Medicaid pharmaceutical programs in the nation. **The Medi-Cal fee-for-service Drug Program controls costs through two major components—(1) a Medi-Cal List of Contract Drugs (or formulary), and (2) contracts with almost 100 pharmaceutical manufacturers for supplemental rebates. Drugs listed on the formulary are available without prior authorization. In turn, the manufacturers agree to provide certain rebates mandated by both the federal and state government.**

The state supplemental drug rebates are negotiated by the DHS with manufacturers to provide additional drug rebates above the federal rebate levels. For the May Revision, it is estimated that the baseline state supplemental rebates will save \$280.2 million (\$140.1 million General Fund). With respect to the federal rebates, the budget assumes savings of \$757.8 million (\$377.7 million General Fund). No policy changes are reflected in these two baseline rebate programs.

Governor's January Budget: The January budget proposed a reduction of about \$200.8 million (\$100.4 million General fund) by enacting the following adjustments to selected areas of the Medi-Cal pharmacy program:

Area of Adjustment from Governor's January Budget	Total Savings	GF Savings
AIDS and Cancer Drugs—supplemental rebate	\$14.1 million	\$7 million
Aged Rebate Disputes	\$13.5 million	\$6.8 million
Generic Drug Contracting	\$53.4 million	\$26.7 million
Atypical Antipsychotics—conduct a therapeutic category review	\$29.5 million	\$14.8 million
Enteral Nutrition contracts	\$18.1 million	\$9.1 million
Enteral Nutrition rate reductions	\$21.3 million	\$10.6 million
Medical Supply contracting	\$17.9 million	\$9 million
Nonsteroidal—conduct a therapeutic category review	\$16.9 million	\$8.4 million
Duration of therapy audits	\$10 million	\$5 million
Frequency of billing audits	\$6 million	\$3 million
TOTALS	\$200.7 million	\$100.4 million

Prior Subcommittee Action—Adopted Savings Level & Left “Open” Certain Trailer Bill: In its April 1 hearing, the Subcommittee adopted the \$200.7 million (total funds) savings level as contained in the Administration’s proposal (above), and left “open” three trailer bill issues.

Each of these “open” trailer issues (three of them) are discussed below.

- **1. AIDS and Cancer Rebate Language:** The Administration proposed trailer bill language to (1) require a 10 percent state supplemental rebate level from these manufacturers, (2) give the DHS authority to suspend all drug products of any manufacturer that fails to contract for the rebates, and (3) provide certain Medi-Cal recipient protections in the event that a drug is suspended from the List of Contract Drugs.

Constituency Concerns: Some manufacturers have expressed concern regarding the wording in the proposed trailer bill language as it pertains to the “10 percent” state supplemental rebate amount. **In lieu of a percentage designation, they would prefer alternative language which (1) does not make reference to a particular percentage level, (2) re-crafts the ability of the DHS to delete the manufacturers other drug products from the formulary, and (3) establishes a two-year sunset on the state supplemental rebate requirement.**

Subcommittee Staff Recommendation: Based on discussions with some constituency groups and the DHS, Subcommittee staff recommends modified trailer bill placeholder language to do the following (add Section 14105.436 to W &I Code):

- Effective July 1, 2002, all pharmaceutical manufacturers shall provide the DHS with a state rebate in addition to rebates pursuant to other provisions of state and federal law for any drug products that have been added to the Medi-Cal List of Contract drugs pursuant to Section 14105.43 or 14133.2 and reimbursed through Medi-Cal (concurs with the DHS).
 - Provide for beneficiary continuing care (concurs with the DHS).
 - Provide for a three-year sunset (until June 30, 2005).
 - In lieu of the DHS’ proposed “hammer” language, provide that rebate contracts need to be in place by no later than February 1, 2003 or the DHS can take other utilization control actions. (This is intended to be less onerous than the “hammer” but needs to be discussed to further define the mechanism.)
- **2. Continuation of the overall Medi-Cal Drug Program:** The overall Medi-Cal Drug Program is slated to sunset as of **January 1, 2003**. **The Administration is proposing to eliminate the sunset date in order to continue the program indefinitely.** Historically, the sunset date has been extended in two-year increments through budget trailer legislation since 1992. These two-year extension periods have occurred at the request of constituency groups who have desired the opportunity to revisit the program if problems arose. The Administration contends that the Medi-Cal Drug Program is an integral component to the overall Medi-Cal Program and should be permanently established.

Subcommittee Staff Recommendation: It is recommended to concur with the Administration and eliminate the sunset date.

- **3. Drugs with a “therapeutic gain”(Section 14105.30 (c)):** The Administration is proposing to delete existing statute (i.e., Section 14105.39 (c)) which generally provides that any new drug designated as having an important therapeutic gain and approved by the FDA shall immediately be included on the list of contract drugs for a period of three years if certain conditions are met.

They contend that this language is out-of-date. In 1992, the federal FDA discontinued the practice of labeling drugs as having an “important therapeutic gain” and instead, began using the designations of “P” (for priority) or “S” (for standard). **However, state law has never been updated to reflect these federal changes.**

As such, the DHS states that retaining this obsolete language has caused controversy among a few manufacturers regarding the automatic inclusion of new drugs on the Medi-Cal formulary. Therefore, the Administration believes the language needs to be deleted or it will have a detrimental affect on the budget. **Specifically the Administration is concerned that if the provision is maintained litigation may ensue which could result in a loss of state supplemental drug rebate revenues or could require the DHS to promulgate regulations to identify which new drugs have an “important therapeutic gain”.**

Subcommittee Staff Recommendation: It is recommended to conform with the Administration and delete this provision.

Budget Issue: Does the Subcommittee want to adopt or modify the language for these three items?

12. Medi-Cal Drug Program and Related Items—May Revision Adjustments **(ISSUES “A” to “H”)**

Governor’s May Revision—Overall Additional Adjustments: In addition to the January proposals, the May Revision proposes to enact a variety of further reductions in this area **that equate to an additional savings of \$141.7 million (\$70.8 million General Fund).** These are as follows:

Area of Additional Adjustment May Revision	Total Savings	GF Savings
Drug Manufacturing Items:		
• Create List of Preferred Prior Authorized Drugs	\$10 m	\$5 m
• Create List of Drugs Exempt from Co-pay when drug rebate are available	\$20 m	\$10 m
• Protect State Drug Rebates—trailer bill language	\$14 m	\$7 m
• <i>Subtotal</i>	<i>\$44 million</i>	<i>\$22 million</i>
Pharmacy Items:		
• Reduce reimbursement from AWP-5% to AWP-10% for brand drugs <i>and</i> AWP-40% for generic drugs	\$24 m	\$12 m
• New methodology for establishing Maximum Allowable Ingredient Costs on Generic Drugs	\$6 m	\$3 m
• Change payment method for over-the-counter medications from drug ingredient cost plus 50% to drug ingredient cost plus a professional fee	\$42 m	\$21 m
• <i>Subtotal</i>	<i>\$72 million</i>	<i>\$36 million</i>
Medical Supply Items:		
• Change methodology for establishing the Maximum Allowable Product Cost for Medical Supplies	\$6 m	\$3 m
• Remove Medical Supplies from regulations and create a List of Contract Medical Supplies	\$4 m	\$2 m
• Reduce incontinence supplies reimbursement—creams and washes	\$2 m	\$1 m
• Reduce incontinence supplies reimbursement—all other products	\$12 m	\$6 m
• <i>Subtotal</i>	<i>\$24 million</i>	<i>\$12 million</i>
<i>SUBTOTAL OF ALL SAVINGS</i>	<i>\$140 m</i>	<i>\$70 m</i>
DHS Staff & System Changes:		
• DHS—two staff	(\$156,000)	(\$39,00)
• Expenditure for changes to claims processing and other Medi-Cal system changes.	(\$3.0 m)	\$(1.5 m)

Some savings figure would be higher because the Administration’s savings figure is just applicable to childrens services since they are proposing to eliminate certain adult “optional” benefits.

ISSUE “A”—Create A List of Preferred “Prior Authorized” Drugs

Background: Currently, the Medi-Cal List of Contract Drugs (**Contract List**) contains only products that **do not require prior authorization** when prescribed and dispensed within the limits of any usage or quantity restrictions.

Governor’s May Revision: The May Revision **proposes to create within the existing Contract List a “Sub List” of “Preferred But Prior Authorization Required” drugs.** This Sub List would contain those drugs for which the DHS had a rebate contract. Being listed on this Sub List would mean that the DHS would authorize only that drug, unless the prescribing physician justified the need to authorize a drug not on this Sub List.

The Administration states that this proposal would save \$10 million (\$5 million General Fund). It would require trailer bill language to implement—**this has not yet been provided.**

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions.

- 1. Please **briefly explain how the proposal would work**—from **both** a drug manufacturer’s perspective of getting and maintaining a drug on this Sub List, **and** from the Medi-Cal recipient’s perspective.
- 2. How **does this proposal interact with other proposals** made in the January budget and May Revision?
- 3. How **would the state ensure access to certain specialized drugs**, such as those for mental illness, AIDS, Cancer or other disease states that may require brand name drugs?
- 4. Please **describe the key assumptions behind the savings level.**
- 5. **When will the trailer bill language be provided?**

Budget Issue: Does the Subcommittee **want to adopt or modify the proposal to create a Sub List for certain drugs as proposed?**

ISSUE “B”—Create List of Drugs Exempt from Co-Pay When Rebates Are Available

Background: Currently, the Medi-Cal List of Contract Drugs (**Contract List**) contains only products that **do not require prior authorization** when prescribed and dispensed within the limits of any usage or quantity restrictions.

Governor’s May Revision: The May Revision proposes **to obtain savings of \$20 million (\$10 million General Fund)** by creating **within the existing Contract List a “Sub List” of “Drugs Exempt from Co-Payments”**.

Under this proposal, **if a drug manufacturer negotiates a state supplemental rebate sufficient to make that drug the lowest cost drug within its therapeutic class, that drug will be exempt from the co-payment deduction requirement.** (The Administration has proposed an increase in copayments whereby provider rates would automatically be reduced whether the Medi-Cal recipient pays the copayment or not. The Subcommittee has rejected this proposal.)

The May Revision assumes savings of \$20 million (\$10 million General Fund) from this approach.

Background on Existing Statute—Section 14105.33 (a): This existing section of law states:

The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or non-bid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed.

Subcommittee Staff Recommendation: It is recommended to reject the Administration’s proposal since the Subcommittee denied the copayment proposal. In lieu of this Sub Contract approach, **it is recommended to (1)** delete \$20 million (\$10 million General Fund) from the local assistance budget, and **(2)** adopt uncoded trailer bill language which states that:

It is the intent of the Legislature that, in implementation of Section 14105.33 of the Welfare and Institutions Code during the 2002-03 fiscal year, the Director of the Department of Health Services shall direct the department to negotiate as aggressively as necessary to achieve savings levels related to pharmaceutical contacting identified in the Budget Act.

Budget Issue: Does the Subcommittee want to adopt or modify the proposal?

ISSUE “C”—Protect State Drug Rebate Collections

Background: Federal Medicaid (Medi-Cal) drug rebate law requires drug manufacturers to pay states rebates based on a percentage of their Average Manufacturers Price (AMP) or the difference between their “Best Price” and their AMP. Payments are made to the states each quarter based on the manufacturers calculation of AMP for each drug product they sell. Federal law allows manufacturers to recalculate the AMPs on a retroactive basis that affects payments made to states for past quarters. **This has resulted in states, including California, having to pay back or give manufactures a credit towards future rebate payments.**

The DHS contends that since Medi-Cal also collects state supplemental rebates (i.e., rebates based on contractual agreements that are in addition to the federally mandated rebates), and since these supplemental rebates are often based on the manufacturer’s AMP, California is significantly affected by retroactive changes in the manufacturers AMP. **As such, this has resulted in the loss of millions of dollars in rebates (both federal and state) that had already been paid to the state.**

Governor’s May Revision: The Administration is proposing the enactment of trailer bill legislation to prevent the loss of state drug rebates if manufacturers recalculate downward their average manufacturers price (AMP) or their “Best Price” as defined in federal law which would result in the state having to refund negotiated rebates received in prior years.

The May Revision assumes savings of \$14 million (\$7 million General Fund) for this proposal.

ISSUE “D”—Reduce Pharmacy Reimbursement from AWP-5% to AWP-10% for

Brand Drugs & AWP-40% for Generic Drugs

Background: The Medi-Cal reimbursement to pharmacists is comprised of two parts—drug ingredient cost, and a professional fee often noted as the dispensing fee.

The Average Wholesale Price (AWP) is the drug manufacturer’s suggested price that pharmacies pay to purchase drugs from the wholesaler (for example McKesson Company)

Currently, Medi-Cal reimburses pharmacies at AWP minus 5 percent (AWP-5%). According to the Senate Office of Research, only one other state reimburses at this higher level—Alaska. **About 22 states reimburse pharmacies between AWP minus 11 percent to minus 15 percent for brand name drugs and substantially lower than that for generic drugs.**

Direct Price (“Dirty Dozen”): The Direct Price reimbursement component was established by Medi-Cal in 1977 for 11 specific manufacturers to more closely reflect the purchasing practice of pharmacies at the time. **Direct Price is the price pharmacies pay when purchasing drugs**

direct from these manufacturer and is a price that is lower than purchasing the same drugs from wholesalers (AWP). The Direct Price is significantly lower than the AWP minus 5 percent rate of reimbursement. The overall effect the Direct Price is to help lower the overall average drug ingredient cost reimbursement closer to AWP minus 14 percent.

Except for Medi-Cal, there are no known pharmaceutical benefit programs that reimburse on the basis of Direct Price because pharmacies have essentially abandoned ordering direct from manufacturers. Pharmacies now obtain their drugs from wholesalers on a daily basis.

Governor's May Revision: The May Revision proposes to **(1)** reduce the existing pharmacy reimbursement rate of AWP minus 5 percent to AWP minus 10 percent for brand name/innovator drugs, **and (2)** reduce the pharmacy reimbursement rate for generics to AWP minus 40 percent. The May Revision assumes savings of \$24 million (\$12 million General Fund) for these reductions. Trailer bill language is required for implementation.

The DHS notes that they will coordinate these proposed reductions with the Generic Drug Contracting proposal as contained in the January budget and as adopted by the Subcommittee. Further, the DHS states that it will also coordinate this proposal with the Maximum Allowable Ingredient Cost proposal as contained in the May Revision (to be discussed below).

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions.

- 1. Please briefly explain the May Revision proposal—both pieces.
- 2. Please describe the key assumptions behind the savings level.

Budget Issue: Does the Subcommittee want to adopt or modify the proposal?

ISSUE “E”—New Method for Establishing Maximum Allowable Ingredient Costs on Generic Drugs (Pertains to Pharmacy)

Background: The Medi-Cal reimbursement to pharmacists is comprised of two parts—drug ingredient cost, and a professional fee often noted as the dispensing fee.

The Average Wholesale Price (AWP) is the drug manufacturer's suggested price that pharmacies pay to purchase drugs from the wholesaler (for example McKesson Company).

The Maximum Allowable Ingredient Cost (MAIC) is the maximum drug ingredient cost amount that pharmacies are reimbursed for various generic drugs. The federal government authorizes states to use MAIC programs to address the wide variation in the price of generic drugs. For example, there could be 5 different manufacturers of the same generic drug and the price might vary considerably between manufacturers.

In the Medi-Cal Program, based on existing state statute, **MAIC is based on the Average Wholesale Price (AWP) minus five percent of a reference generic drug that is generically equivalent to the innovator brand.** The reference drug must be manufactured by a company with production capability to meet the statewide needs of the Medi-Cal Program for that particular drug.

For example, Acetaminophen with Codeine #3 is generically equivalent to the brand name Tylenol with Codeine #3. Medi-Cal has determined that the product made by Purepac Pharmaceutical is the reference drug based on its AWP-5 percent price (i.e., 34 cents per tablet) and production availability. This sets Medi-Cal's maximum ingredient cost reimbursement for all drugs generically equivalent to Purepac's product (including brand name Tylenol with Codeine) at 34 cents.

Wholesale Selling Price: The Wholesale Selling Price (WSP) represents the actual price at which the wholesaler sells drug product to pharmacies. According to the DHS, **the Average Wholesale Price (AWP) is an artificial price and is typically 40 to 70 percent higher than the WSP for generic drugs.**

Governor's May Revision: The May Revision proposes to change the existing methodology for establishing MAIC from AWP-5 percent to a **new methodology that is based on the Wholesale Selling Price (WSP).** The MAIC would be based on the average of the WSP of a drug(s) generically equivalent to the innovator brand available in California from major wholesale drug distributors. Trailer bill language is needed for implementation.

The May Revision states that savings of \$6 million (\$3 million General Fund) can be achieved through this change.

The DHS notes that they will coordinate this proposed reductions with the Generic Drug Contracting proposal as contained in the January budget and as adopted by the Subcommittee. Further, the DHS states that it will also coordinate this proposal with the proposal to adjust the pharmacy reimbursement rate for generics to AWP minus 40 percent as contained in the May Revision (as discussed above).

Subcommittee Staff Recommendation: It is recommended to adopt the May Revision, including the trailer bill language.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions.

- 1. Please **briefly explain how the proposal would work.**
- 2. Please **describe the key assumptions behind the savings level.**

ISSUE “F”—Change Methodology for Establishing the Maximum Allowable Product Cost for Medical Supplies & Remove Them from Regulations

Background: Currently the California Code of Regulations (Regulations) **requires that a public hearing be undertaken for the establishment of Maximum Allowable Product Cost (MAPC) for medical supplies. The Regulations also require that MACP be based on the Average Wholesale Price (AWP) of medical supply products.**

As with drug products, the AWP for medical supplies is the manufacturer’s suggested price that pharmacies and medical supply dealers pay to purchase medical supplies from the wholesaler or manufacturer. As such, the DHS states that the AWP is an artificial price. **The DHS states that the AWP for medical supplies is typically 20 percent higher than the Wholesale Selling Price.**

The Wholesale Selling Price (WSP) represents the actual price at which the wholesaler sells medical supply product to pharmacies.

Governor’s May Revision—Change Rates: First, the May Revision proposes to change the methodology for establishing MACP for Medical Supplies from AWP to a methodology that is based on the WSP. This would include removing the current requirement to conduct a public hearing to establish MAPCs. Trailer bill language is required for implementation.

The May Revision proposes to save \$6 million (\$3 million General Fund) from this proposal. However, the Administration’s savings level also assumes that Medical Supplies (for adults) are eliminated.

Therefore, if the Subcommittee maintains Medi-Cal Optional Benefits and adopts this proposal, the savings figure would be \$9 million (\$4.5 million General Fund).

Governor’s May Revision—Establish List of Contract Medical Supplies: Second, the May Revision proposes to remove medical supplies from the California Code of Regulations in order to implement utilization controls (if they were left in regulation, the DHS would have a lengthy regulation amendment process) and to establish a List of Contract Medical Supplies. **Placement on the List would be based on contract negotiations. This proposed action would save \$4 million (\$2 million General Fund) and requires trailer bill legislation to implement.**

Subcommittee Staff Recommendation: It is recommended to **(1)** adopt the higher level of savings (to reflect maintaining Optional Benefits) of **\$9 million (\$4.5 million General Fund), and (2)** adopt the **\$4 million (\$2 million General Fund) amount for the contracting, and (3)** conform with the proposed trailer bill language.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions.

- **1. Please briefly explain how each proposal would work—rate reduction and contracting.**

Budget Issue: Does the Subcommittee want to adopt or modify the proposal?

ISSUE “G”—Change Payment Method for Over-The-Counter Drugs

Background: The Medi-Cal Program covers several “over-the-counter” (i.e., non-legend) drugs such as insulin, cough and cold preparations, calcium supplements, pre-natal vitamins, and nicotine patches for smoking cessation. **Medi-Cal requires recipients to obtain a prescription from their physician for these products. Pharmacy reimbursement for “over-the-counter” drugs is based on ingredient cost plus a 50 percent mark-up.**

Originally, the mark-up method of payment was less costly than paying for a professional (dispensing) fee. As “over-the-counter” drug ingredient costs have risen, the 50 percent mark-up has become more costly. The business costs (physical plan, employee costs, etc.) associated with dispensing an “over-the-counter” drug are the same as those associated with dispensing legend (i.e., requires a prescription per federal law) drugs. The current professional fee is \$4.05 per prescription.

Governor’s May Revision: The May Revision process savings of \$42 million (\$21 million General Fund) by changing the reimbursement of “over-the-counter” (non-legend) drugs from drug ingredient cost plus 50 percent mark-up to drug ingredient cost plus a professional fee. This requires trailer bill legislation to implement.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions.

- 1. Please provide a brief description of the proposal.

Subcommittee Staff Recommendation: It is recommended to adopt the May Revision.

Budget Issue: Does the Subcommittee want to adopt or modify the proposal?

ISSUE “H”—Proposed Reduction to Incontinence Supplies Reimbursement

Background: Incontinence supplies are a Medi-Cal Optional Benefit. According to the DHS, the use of incontinence supplies is restricted to chronic pathological conditions causally related to the patient’s incontinence. The monthly reimbursement per Medi-Cal recipient is limited to \$165 per month *without* prior authorization. Currently, creams and washes used in incontinence care are excluded from this \$165 per month amount. Any additional supplies above this dollar amount require prior authorization.

Reimbursement for incontinence supplies, including creams and washes, is limited to the lesser of the provider’s usual and customary rate or Medi-Cal’s rate on file plus a 40 percent markup. (It should be noted that Sales Tax, when applicable, is added to the above rate or mark-up and should be included in the amounts billed to the program.)

It should be noted that the Medi-Cal reimbursement **for all other medical supplies is the lesser of the provider’s usual and customary rate or Medi-Cal’s rate on file plus 25 percent mark-up.**

Governor’s May Revision: The May Revision is proposing two changes. **First, the Administration is proposing to include creams and washes in the \$165 per month amount on incontinence supplies. This action would save \$2 million (\$1 million General Fund) and requires trailer bill legislation.**

Second, the Administration proposes to reduce the reimbursement rate for incontinence supplies to be the same rate that applies to all other medical supply products (i.e., the lesser of provider’s usual and customary rate or Medi-Cal rate on file plus 25 percent mark-up). This action would save \$12 million (\$6 million General Fund).

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions.

- 1. Please briefly explain how the proposal would work.
- 2. Please describe the key assumptions behind the savings level.

Subcommittee Staff Recommendation: It is recommended to adopt the May Revision, including the proposed trailer bill language.

Budget Issue: Does the Subcommittee want to adopt the Administration’s proposal to **(1) include creams and washes in the \$165 per month amount, and (2) conform the reimbursement rate used for incontinence supplies to the same method as used for all other medical supplies?**

13. Drug Reimbursement (Dispensing Fee)—Rescind

Background: AB 2377, the omnibus health trailer bill to the Budget Act of 1994, reduced the Medi-Cal reimbursement to pharmacies by 50 cents per prescription. **It remained at this level for the next 6 years** until the enactment of SB 651 (Burton), Statutes of 2000.

This legislation, among other things, increased the reimbursement by 25 cents per prescription as of January 1, 2000 and by another 15 cents as of July 1, 2002. Essentially, the 50 cent reduction became a 25 cent reduction on January 1, 2000 and will become a 10 cent reduction on July 1, 2002.

SB 651 (Burton) also provided that pharmacists shall not be subject to any exemption from wage orders of the Industrial Welfare Commission established for professional employees. The May Revision proposes **no changes to this language** as contained in the Labor Code.

Governor's May Revision: The Administration is proposing to add subdivision (c) to Section 14105.337 of W & I Code which would effectively repeal the dispensing fee adjustments (the 25 cents and pending 15 cents). **Specifically the proposed amendment states:**

14105.337 (a) Effective January 1, 2000, the department shall increase reimbursements to pharmacists by twenty-five cents (\$0.25) per prescription for all drug prescription claims reimbursed through the Medi-Cal Program.

(b) Effective July 1, 2002, the department shall increase reimbursement to pharmacists by an additional fifteen cents (\$0.15) per prescription for all drug prescription claims reimbursed through the Medi-Cal Program.

(c) Subdivision (a) and (b) shall become inoperative with respect to pharmacy services rendered on and after the date that this subdivision is enacted.

The May Revision assumes savings of \$14.8 million (\$7.4 million General Fund) by rolling-back reimbursement adjustments effective as of July 1, 2002.

Subcommittee Staff Recommendation: Due to the severe fiscal situation, it is recommended to adopt the Governor's May Revision, and to add a two-year sunset date to the dispensing fee roll-back (i.e., as of July 1, 2005 the full 40 cents is returned absent any other action).

14. Durable Medical Equipment and Clinical Laboratory Contracting

Background—DME and Laboratory Services: The Medi-Cal Program covers a broad range of Durable Medical Equipment (DME), **such as wheel chairs, walkers, canes and crutches, bathroom equipment, oxygen therapy equipment, patient monitoring devices, infusion equipment, breast pumps, inhalation therapy equipment, nerve and muscle stimulators, and devices to stimulate bone and wound healing.**

Some of these items are available only for purchase, some only for rental, and some for rental or purchase. **These items vary in price from a few dollars to several thousand dollars each.** Some items must be manually priced because they are custom-designed and fabricated or very specialized items without established prices. **DME that costs over \$100 requires prior authorization.**

The Medi-Cal Program covers laboratory services, including clinical laboratory tests.

Existing Authority to Contract (Section 14105.3 (b)): SB 35, omnibus health trailer bill to the Budget Act of 1993, authorized the DHS to enter into exclusive or non-exclusive contracts on a bid or negotiated basis with laboratories for clinical laboratory services for the purpose of obtaining favorable prices and to assure adequate quality of the product or service. It provided the same authority for DME.

Though the authority was provided to the DHS, and I'm sure we assumed Medi-Cal savings in the budget, the DHS never implemented the process for the lack of state staff that they contend was needed for implementation.

Governor's May Revision: The May Revision proposes to **(1)** provide five state staff to implement the proposal for expenditures of \$487,000 (\$177,000 General Fund), and **(2)** achieve **savings of \$6.6 million (\$3.3 million General Fund), assuming an implementation date of April 1, 2003.**

The DHS states that staff are needed to establish standards for DME items and clinical laboratory tests subject to contracting, initiate bids as necessary, write regulations if needed, develop DME and clinical laboratory distribution and access networks and monitor contract compliance.

Subcommittee Staff Recommendation: It is recommended for the Subcommittee to adopt the May Revision proposal **with a modification to the implementation date, and subsequently savings level.** Specifically, assume an expedited implementation date of **January 1, 2003** (in lieu of April 1) and **an additional savings amount of \$6.6 million (\$3.3 million General Fund).** **This would provide for total local assistance savings of \$13.2 million (\$6.6 million General Fund).**

Budget Issue: Does the Subcommittee want to adopt or modify the proposal?

15. Medical Case Management Program—Request for Staff & Local Assistance Savings

Background: Established in 1992, the Medical Case Management Program provides intensive disease management assistance (mainly in-home) to selected high-utilization and cost Medi-Cal enrollees who have chronic or catastrophic illness. Savings are achieved since this management reduces the need for acute patient hospitalizations. Since its establishment, this program has managed over 21,000 cases and has netted close to \$180 million in Medi-Cal savings through the reduction in and/or avoidance of repeated hospitalizations.

Currently, the Medical Case Management Program has 60 positions and generates about \$28 million (total funds) in savings annually.

Governor's May Revision: The May Revision proposes to expand the program by (1) providing 91 positions in state operations, and (2) funding 43 positions in the Fiscal Intermediary contract.

According to the DHS, these positions will generate up to an *additional* \$9 million (\$4.5 million General Fund) in cost savings for the budget year, and up to \$36 million (\$18 million General Fund) cost savings in 2003-04. It should be noted that the budget year savings assumes an April 1, 2003 implementation date.

The requested state positions include: 77 Nurse Evaluator IIs, 12 Nurse Evaluator IIIs, and 2 Associate Analyst positions. An increase of \$4.4 million (\$1.5 million General Fund) is proposed for this purpose.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following question.

- 1. Please briefly describe the proposal.

Subcommittee Staff Recommendation: It is recommended to (1) adopt Budget Bill Language which enables the DHS to conduct an expedited hiring process, (2) assume a January 1, 2003 implementation date, *and* (3) assume a savings level of \$18 million (\$9 million General Fund). The revised savings level reflects the expedited implementation which should be feasible as long as individuals are hired.

Budget Issue: Does the Subcommittee want to adopt or modify the proposal?

16. Proposed Expansion for Medi-Cal Anti-Fraud Efforts

Background: The DHS has a total of **225 staff involved** in its fraud and abuse prevention efforts. **Staff is located in the following divisions:**

- | | |
|--------------------------------|--------------|
| • Medi-Cal Policy | 9 positions |
| • Payment Systems | 59 positions |
| • Audits & Investigations | 58 positions |
| • Medi-Cal Managed Care | 20 positions |
| • Medi-Cal Fraud Bureau | 26 positions |
| • Primary Care & Family Health | 3 positions |
| • Laboratory Field Services | 10 positions |
| • Office of Legal Services | 27 positions |
| • Office of Public Affairs | 1 position |
| • Information Technology | 3 positions |
| • Administration | 9 positions |

Fraud prevention is measured in two ways—savings and cost avoidance. *Savings* are the result of an anti-fraud effort when providers already enrolled in the program are found to be engaging in fraud or abuse and their activities are stopped. *Cost avoidance* results when new providers are prevented from enrolling when fraud is suspected.

Governor's May Revision: The May Revision proposes **to provide almost \$3 million (\$1 million General Fund and \$2 million federal funds) to hire an additional 40 positions to perform a variety of additional anti-fraud activities including the following:**

- **Re-enrollment activities (35 positions)** such as reviewing applications, conducting background checks of providers, conducting inspections and related items targeted on certain categories of providers who would be seeking to continue to participate as a provider in the Medi-Cal Program.
- **Beneficiary Identity Theft Project (4 staff)**, this entails the re-issuing of Beneficiary Identification Cards (IBC) to mitigate beneficiary card sharing and identify theft, and related items
- **Personnel Management Branch (1 staff)** to assist with hiring and recruitment and retention activities.

The May Revision reflects savings of about \$60 million (\$30 million General Fund) in 2002-03 for these anti-fraud activities.

Legislative Analyst Office Recommendation: The LAO recommends approval of the positions but suggests **that 15 of the 40 positions be two-year limited-term.** These positions include: Staff Services Manager I, six Analysts, two Office Technicians, three Nurse Evaluators, two Health Program Auditors, and one Laboratory examiner. They are recommending these as limited-term because the LAO believes that over time the need to re-enroll providers will eventually diminish.

Subcommittee Staff Recommendation: It is recommended to **adopt the LAO recommendation.**

17. Medi-Cal & Healthy Families Program Outreach --Reductions

Governor's January Proposed Budget and Prior Subcommittee Action: A total of **\$32.7 million (\$11.1 million General Fund)**, including almost \$3.8 million in foundation funds coupled with matching federal funds, was proposed for expenditure in the January budget. **The Subcommittee adopted the Governor's January budget proposal.**

This reflected a reduction of \$10.3 million when compared with the revised current year, and a reduction of \$20.7 million (\$4.1 million General Fund) when compared to the Budget Act of 2001.

Governor's May Revision: The May Revision **proposes a reduction of \$18.6 million (\$7.2 million General Fund)** as shown below:

	Healthy Families & Medi-Cal Outreach	
	January 2002-03	May Revise 2002-03
Payments to CBOs		
CBO Contracts	\$ 6,000,000	0
School Based Outreach	6,000,000	0
Administration of Contracts	164,000	0
Application Assistant Fees	7,000,000	6,138,000
\$25 For Parents of Enrolled Children	500,000	0
Payment Processing - Fees	1,015,000	1,000,000
Total	20,679,000	7,138,000
Outreach Support		
Collateral Material & Distribution	600,000	0
Training/Presentations	182,000	182,000
Assistant and Health e-app training	2,500,000	0
Applicant Assistant 800 Line	400,000	400,000
CBO Support Staff/Reporting	925,000	650,000
Advertising Toll-Free 888 Line	1,565,000	1,296,000
Total	6,172,000	2,528,000
Education		
Advertising	0	0
Advertising - Parent Coverage	0	0
Public Relations	520,000	0
Administration/Research/Travel	1,120,000	650,000
Total	1,640,000	650,000
Focus on Immigrant Communities		
Advertising	0	0
Public Relations	470,000	0
Budget Total	\$ 28,961,000	\$ 10,316,000
General Fund	11,146,000	3,946,000
Federal Funds	17,815,000	6,370,000

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions.

- 1. Please briefly **describe the proposal and specifically why certain priorities were selected to be funded and others were not.**

Subcommittee Staff Comment: Due to fiscal constraints, a **General Fund increase for outreach is *not* recommended.**

Budget Issue: Does the Subcommittee **want to adopt the May Revision or shift funds between line items (refer to above chart)?**

18. Adult Day Health Care (ADHC) Alternative Shift—New Pilot Project:

Background and Governor’s May Revision: The DHS is proposing to implement a ***new pilot project*** to test the efficacy of alternative scheduling under the Adult Day Health Care (ADHC) benefit at ten existing ADHCs that meet specified criteria. Alternative scheduling would permit more flexible scheduling of recipients receiving ADHC benefits at licensed and certified ADHC centers. **The May Revision provides an increase of \$4.8 million (\$2.4 million General Fund) for this purpose.**

Subcommittee Staff Recommendation: Due to the fiscal situation, it is recommended not to fund a new pilot project. Funds are needed for baseline programs. **Therefore, it is recommended to delete this proposal and save \$2.4 million General Fund.**

Budget Issue: Does the Subcommittee **want to deny or adopt the proposal?**

19. Proposed Pilot for the DHS’ Office of the Ombudsman—No Additional Funding

Background: The Office of the Ombudsman is responsible for assisting Medi-Cal managed care members in resolving problems they may be experiencing in accessing or receiving health care services through their health plan. Ombudsman staff respond to member telephone calls and work with the member’s health care service plan if necessary. If the member’s issues can not be resolved to the member’s satisfaction they are informed of their rights, including their right to a State Fair Hearing.

Ombudsman staff will also receive telephone inquiries from Medi-Cal eligible beneficiaries who receive health care through the fee-for-service system. These individuals are assisted to the extent possible and/or referred to the appropriate organization such as their local county social welfare department.

Ombudsman staff is also responsible for preparing and providing documentation to the Department of Social Services when a State Fair Hearing is filed by a Medi-Cal managed care plan member.

Constituency Request: Consumer health care assistance centers have proposed for the DHS to pilot test the concept of contracting with an entity that would perform the functions of the DHS' Ombudsman or to provide support services to the Office, including training. The DHS has expressed interest in possibly proceeding with a pilot project.

Subcommittee Request and Questions: The Subcommittee has requested the DHS to respond to the following questions.

- 1. From a policy perspective, would it be beneficial to test pilot utilizing an independent entity for certain Ombudsman services?

Budget Issue: Does the Subcommittee want to adopt placeholder trailer bill language to enable the DHS to contract for certain Ombudsman-related services (permissive, not a mandate)? (No additional funding would be provided for this purpose.)

LAST Item for the Medi-Cal Program

B. Public Health Programs

1. Proposition 99 Funded Programs—Revenues Continue Decline (See Hand Outs)

Overall Background—General : Proposition 99, the Tobacco Tax and Health Protection Act of 1988, established a surtax of 25 cents per package on cigarettes and other tobacco products, and provided a major new funding source for health education, indigent health care services, and resources programs.

Under the provisions of Proposition 99, **revenues are allocated across six accounts based on specified percentages. These are: (1) Health Education Account—20 percent, (2) Hospital Services Account—35 percent, (3) Physician Services Account—10 percent, (4) Research Account—5 percent, (5) Unallocated Account—25 percent, and (6) Public Resources Account—5 percent (discussed in Subcommittee No. 2).**

Governor’s May Revision--Key Program Changes (See Hand Out): Proposition 99 revenues are **projected to decrease by \$6 million in the current year and \$21 million in the budget year.** In addition to these revenue declines, prior year adjustments have been reconciled, **resulting in resource decreases of \$30.1 million in the Health Education Account and \$1.4 million in the Unallocated Account.**

To address these shortfalls, **the May Revision proposes the following major adjustments in the budget year:**

- Reduction to the Media Campaign of \$24.1 million.
- Reduction to the California Healthcare for Indigent Persons Program of \$4.2 million.
- Reduction of \$4.8 million to the CMSP.
- Reduction of \$6.8 million to the Access for Infants and Mothers (AIM) Program, due to caseload adjustments and related factors.
- Reduction of \$3.5 million for the Breast Cancer Early Detection Program.

Subcommittee Request and Questions: The Subcommittee has requested the Administration to respond to the following questions.

- **1. DHS, Please briefly describe the proposed key reductions** for your programs as referenced above. **What occurred in the reconciliation** from past year for such a swing to have occurred?
- **2. Will the DHS be developing a new Media Campaign due to the shortfall?**
- **3. MRMIB, Please briefly describe the adjustments for the AIM Program.**

Subcommittee Staff Recommendation: Given the fiscal situation, **it is recommended to adopt the May Revision proposal.**

2. Birth Defects Monitoring Program—Proposed Funding Shifts to Restore

Background: In California, **one out of every 33 babies is born with a birth defect.** Birth defects are the leading cause of infant mortality. Birth defects can strike any family regardless of income, race or level of education. **They can occur even if there is no family history of birth defects, when the mother has good prenatal care or if the mother does not imbibe in alcohol or drugs.**

Research is vital to stopping birth defects before they occur and state surveillance programs have been a key component in the effort. The economic cost of birth defects is estimated to be over \$1 billion annually.

The California Birth Defects Monitoring Program (CBDMP) was established in 1982. It is **jointly operated with the March of Dimes** and is a national and international leader in birth defects epidemiology. **The CBDMP is designated as one of eight national Centers of Excellence for Birth Defects Research and Prevention and is part of a nationwide effort to discover the causes of birth defects.**

The following lists recent highlights:

- Finding the first evidence associating urban air pollution with heart defects (2001);
- Identifying that women who take folic acid before becoming pregnant reduce the chance of having a baby born with spinal defects by up to 70 percent;
- Showing a link between obesity and increased spinal defects;
- Linking home pesticide use to several common birth defects (1999);
- Discovering stressful life events may increase the risk for birth defects (2000);
- Demonstrating gene-environment interaction showing babies with a particular gene are eight times more likely to have oral clefts if their mothers smoke (1998);
- Ruling out high voltage power lines as increases birth defects.

For the past 20 years, the CBDMP's contributions to the discovery of new risk factors and protective factors guide future clinical care and public health strategies for the prevention of birth defects.

Current Year Funding: Existing funding for **the DHS program is about \$4.4 million (\$4.1 million General Fund and \$250,000 federal Maternal & Child Health block grant funds).** In addition, the **March of Dimes has successfully obtained** two federal grants which have a combined total of \$2 million. Of this federal amount, \$900,000 is set to expire in one year. Clearly, the CBDMP has leveraged the baseline state funding to obtain additional grant funds.

Governor's Proposed Budget: The budget proposes **a reduction of almost \$1.6 million (General Fund) from the program. This proposal represents a 45 percent reduction of state funding.**

Prior Subcommittee Action: The Subcommittee placed \$1.6 million on the Priority to Fund List and **the Chair directed staff to identify funding sources.**

Subcommittee Staff Recommendation: Due to the fiscal situation, General Fund support was not feasible. As such, it is recommended **to do a series of adjustments to programs funded with federal Maternal and Child Health (MCH) Title V block grant funds.** Federal MCH Title V block grant funds are flexible and are used for a wide variety of projects, including \$250,000 for the Birth Defects Monitoring Program. **The following adjustments are proposed:**

- Eliminate \$151,000 for the annual MCH Conference;
- Shift the entire \$210,000 for the Automated Vital Statistics System (AVSS) Birthnet (links up birth and death records) from MCH Title V funding to the Health Statistics Fund. (The DHS agrees that this is a more appropriate funding source and that it should be fee supported.);
- Redirect the entire \$151,000 cost for the Common Application Transaction System (CATS) implementation which provides computer support for a wide variety of programs—WIC, Family PACT, CCS and others—to the departments overall overhead for reimbursement back to the Health and Welfare Data Center. (This is how other projects such as this operate.)
- Reduce by \$250,000 the Fetal Infant Mortality Review Program, leaving \$500,000 to remain. This program was funded at \$500,000 for many years and was still quite successful.
- Shift the entire \$200,000 for the Perinatal Profiles to the California Health Data and Planning Fund (in OSHPD) since it is a data project that analyzes hospital birth data. (The California Health Data and Planning Fund has a substantial reserve.)
- **Redirect the entire \$962,000 in the above identified federal MCH Title V block grant funds and backfill a portion of the General Fund reduction to the Birth Defects Monitoring Program.**

Budget Issue: Does the Subcommittee want to adopt any portion of the recommendation?

3. Child Health Disability Prevention (CHDP) “Gateway”

Outline of Governor’s Revised Proposal: At the direction of the Governor, the DHS convened a series of constituency work group meetings to solicit options and comment on restructuring the CHDP Program to maximize enrollment in Medi-Cal and Healthy Families (more comprehensive care). Through this process, ideas were garnered for crafting a “CHDP Gateway”. As such, the Governor reformulated his original January budget proposal to eliminate the CHDP Program and instead, **agreed to a Gateway concept. This concept was discussed at length in the Subcommittees April 29 hearing.**

The key components of the proposal are as follows:

- The CHDP Program is to continue (not be eliminated) and will operate as it currently exists.
- **The CHDP “Gateway”, to be implemented effective April 1, 2003, will build upon existing technology used under the Family PACT Program, and Breast and Cervical Cancer Treatment Program. In essence, this technology allows providers to complete application forms using an internet-based process or a “point of service” device (swipe card for those without internet access) to transmit an application for program eligibility.**
- The CHDP application, with some relatively minor changes, will serve as the enrollment process for CHDP, and as a “*pre-enrollment application*” for Medi-Cal and the Healthy Families Program (HFP) (if the parent elects to have the application forwarded for this purpose).
- The Fiscal Intermediary (EDS) would process the pre-enrollment application and cross-checks this application against the Medi-Cal data file (known as MEDS).
- MEDS identifies the child as having had pre-enrollment within the CHDP periodicity. **At this juncture, the child can then either: (1) proceed to enrollment into full-scope Medi-Cal, (2) proceed to enrollment into HFP, or (3) be CHDP-only.**
- **If a child is CHDP-only, they can receive CHDP services only if the child is accessing services according to the periodicity schedule (See Hand Out). If the CHDP-only child has already received their periodicity visit, and comes again seeking medical assistance, the provider will not be able to obtain payment under the CHDP for the services provided. This is because, the Administration wants to “gateway” the child, when feasible, into comprehensive care (i.e., Medi-Cal or HFP).**
- If MEDS identifies the child as currently receiving full-scope Medi-Cal or HFP, then the family would be told to take the child to the Medi-Cal or HFP provider, as applicable. No CHDP service would be reimbursable.
- It should be noted that children completing pre-enrollment applications for Medi-Cal or the HFP **would still then need to complete full program applications for these programs. The pre-enrollment period would provide for up to a *maximum* of 60 days (two months) worth of program services in order to provide access during the time that the Medi-Cal/HFP application is being processed and finalized. Supplemental applications for Medi-Cal and HFP are to be sent to families.**

American Academy of Pediatrics Periodicity Schedule (See Hand Out): When implemented in 1974, the CHDP Program conformed to the recommendations of the American Academy of Pediatrics (AAP) for preventive health care.

Since this time, the AAP has frequently updated their standards of care, as the provision of medical care has evolved. However, the CHDP Program has not updated its health assessment schedule to meet the AAP standards in over ten years. Yet, children enrolled in Medi-Cal Managed Care do receive the recommended AAP health assessments because it is required in the DHS contracts with the health care plans.

The revised periodicity schedule would provide up to five additional screens for ages 0 to 12, and up to six additional screens for ages 13 to 20 years.

Governor's May Revision (See Hand Outs): The May Revision **contains a series of adjustments** to account for the CHDP Gateway, including system changes, as well as caseload adjustments in the Medi-Cal Program (discussed under that item), the HFP (discussed under that item), as well as the CHDP. **Specifically, these totals are as follows:**

- \$6 million (total funds) for the Medi-Cal Program
- \$888,000 (total funds) for Healthy Families within the DHS
- \$101,000 (total funds) for Healthy Families within the MRMIB

The net increase for the CHDP Gateway compared to the current CHDP program is \$3.9 million (\$50,500 General Fund).

Subcommittee Request and Questions: The Subcommittee has requested the Administration and LAO to respond to the following.

- **1. DHS,** Please **briefly describe the key components** of the Gateway, including the information technology aspects and requested new positions.
- **2. LAO,** Please briefly describe your concerns with the Gateway from the information technology standpoint.

Subcommittee Staff Recommendation: It is recommended to **(1)** adopt the Administration's May Revision for the Gateway (implementation as of April 1, 2003), and **(2)** provide an increase of \$2 million (General Fund) and corresponding federal funds (Title XIX and XXI) to provide for updated periodicity screening for the CHDP Gateway, effective as of April 1, 2003.

Budget Issue: Does the Subcommittee want to adopt or modify the proposal?

4. Cancer Research Program

Background—AB 1554: Chapters 755 and 756, Statutes of 1997 (AB 1554, Ortiz and SB 273, Burton), created the Cancer Research Act of 1997. **The annual Budget Act has provided \$25 million for this program since 1998.** Over the years, the Cancer Research Program has proven to be invaluable. Highlights from existing program research include:

- Approval of a new form of delivery of radiation therapy for treatment of cancer;
- Investigation of the role that infectious agents play in the development of certain forms of cancer;
- Evaluation of the quality of care for patients diagnosed with cancer; and
- Increasing knowledge of the financial costs associated with cancer and its control.

Governor's January Budget and Prior Subcommittee Action: In his January budget the Governor proposed elimination of the entire \$25 million (General Fund).

In its May 6th hearing, the Subcommittee **(1)** adopted trailer bill language to provide for multiple-year contracting for the grants as requested by the Administration, **(2)** capped the indirect costs for the program (grants) at 25 percent, and **(3)** placed \$16 million (General Fund) on the priority to fund list.

Governor's May Revision: The May Revision proposes to provide \$12.5 million (General Fund) for the Cancer Research Program.

Budget Issue: Does the Subcommittee want to **(1)** retain its action on the prior two-components of trailer bill language, and **(2)** conform with the May Revision **to provide \$12.5 million (General Fund) for the program?**

5. Public Health Preparedness & Response (See Hand Out)

Background—Overall Summary: The Emergency Supplemental Appropriations for Recovery & Response to Terrorist Attacks on the US Act (Public Law 107-117 of 2002), among many other things, will **provide California with about \$100 million** in increased federal support to address both local and state concerns regarding the threat of bioterrorism.

The **\$60.8 million in federal CDC funds** are to be expended to upgrade California's state and local public health jurisdictions' **preparedness for, and response to, bioterrorism in 7 areas** as designated by the federal government. **These seven areas and the federal government's suggested proportions of funding to be allocated to each.**

Section 28 Process and Prior Subcommittee Action: With respect to the \$60.8 million in federal CDC funds, twenty percent or \$12 million was made available in the current year. These funds were discussed at length by the Subcommittee in its April 29th hearing. Specifically, these funds were to be allocated as follows:

- **Subvened \$7.5 million to the local health jurisdictions** (excluding LA, Long Beach city and Pasadena City) to support their efforts. These funds are to be allocated as a **separate contract using a formula that includes a \$100,000 per entity base amount plus an allocation provided on a per capita basis (using the 2000 census population data)**. As contained in the state's application, all local assistance allocations will be tied to quantifiable accountability measures and progress reports.
- **Used \$1.5 million for various state activities** to fund planning activities, critical disease surveillance and laboratory equipment needs.
- **Used \$3 million to backfill** for a portion of the \$5 million in General Fund support that was provided by the Legislature and Governor to counties in the fall of 2001 to assist with their expenses in the wake of September 11th.

Governor's May Revision (See Hand Out): The May Revision proposes to expend \$48.8 million in federal block grant funds from the CDC. The DHS states that of this amount, \$41.7 million is to be expended in the budget year, with the remaining amount of \$7.1 million to be expended in budget year plus one (2003-04).

The \$41.7 million in funds are proposed to be expended across the focus areas as follows:

(1) Planning and Readiness Assessment (25% of funds)	\$10.4 million
(2) Surveillance and Epidemiology Capacity (25 %)	\$10.4 million
(3) Biologic Laboratory Capacity (16%)	\$6.7 million
(4) Chemical Laboratory Capacity (none)	none
(5) Communications and Information Technology (15%)	\$6.4 million
(6) Health Risk Communications and Information Dissemination (6%)	\$2.6 million
(7) Education and Training (12%)	\$5.2 million

The DHS is proposing to utilize 71 limited-term positions

Subcommittee Request and Question: The Subcommittee has requested the DHS to respond to the following question.

- **1.** Using the Hand Out, very briefly describe the key components of the May Revision piece.

Subcommittee Staff Recommendation: It is recommended to **(1)** adopt the May Revision, **(2)** adopt SB 616 (Chesbro) regarding laboratories as placeholder trailer bill, and **(3)** adopt SB 1298 (Ortiz) regarding public health subvention as placeholder trailer bill.

6. The AIDS Drug Assistance Program (ADAP)

Background--ADAP: The AIDS Drug Assistance Program (ADAP), established in 1987, is a subsidy program for low and moderate income persons with HIV/AIDS who have no health insurance coverage for prescription drugs and are **not eligible** for the Medi-Cal Program. **There are about 25,500 clients enrolled in ADAP.**

Under the program eligible individuals receive drug therapies through participating local pharmacies under subcontract with the statewide contractor. The state provides reimbursement for drug therapies listed on the ADAP formulary (**about 146 drugs currently**). The formulary includes anti-retrovirals, hypolipidemics, anti-depressants, vaccines, analgesics, and oral generic antibiotics.

ADAP is cost-beneficial to the state. Without ADAP assistance to obtain HIV/AIDS drugs, infected individuals would be forced to (1) postpone treatment until disabled and Medi-Cal

eligible or (2) spend down their assets to qualify for Medi-Cal. About 50 percent of Medi-Cal costs are borne by the state, as compared to only 30 percent of ADAP costs.

Background—HIV Viral Load Testing and Resistance Testing: This testing provides physicians with an objective tool to measure the efficacy of a particular course of treatment. It ensures that ADAP drugs are prescribed to maximize the benefits of drug therapy treatment, resulting in cost savings to the state. Funding for viral load testing was first provided in 1997.

Manufacturers Drug Rebate: Currently, drug manufacturers of brand name drugs pay 15.1 percent of Average Manufacturer Price (AMP), *or* AMP minus best price (another federally established price), whichever is greater, for each unit of drug purchased under ADAP.

Governor's May Revision: The May Revision proposes **an increase of \$1.3 million (a decrease of \$10.9 million General Fund, increase of \$6 million in federal Ryan White CARE Act II funds and \$6.2 million in drug rebates) to address caseload in the Diagnostic Assay portion of the Program.** It should also be noted that drug rebates are up. **Total ADAP funding is proposed to be \$190.5 million (total funds).**

Subcommittee Request and Question: The Subcommittee has requested the DHS to respond to the following question.

- 1. Please provide a brief summary of the adjustments, including both the federal funding and drug rebates.

Subcommittee Recommendation: It is recommended to approve as proposed.

7. Rescind the Youth Anti-Tobacco Program

Background—Concern with Youth Smoking: Mitigating tobacco use by youth continues to be a high priority because the uptake of tobacco is almost exclusively an act of adolescence. According health care experts, youth uptake progresses over several years from the youth being a committed non-smoker to being susceptible, to puffing on cigarettes, to serious experimentation until the youth becomes an established smoker.

Governor's Proposed Budget: The Governor's January budget had proposed expenditures of \$35 million for an **increase of \$15.1 million (Tobacco Settlement Fund) for youth smoking prevention programs.** Total expenditures by strategy were proposed as follows:

- \$4.2 million is for enforcing tobacco control laws;
- \$8 million is slated for interventions targeted at 18-24 year olds;
- \$900,000 is for advancing youth advocacy coalitions;
- \$7 million is for projects for special populations;
- \$3.5 million is for evaluation and surveillance;
- \$3 million is for direct cessation services; and
- \$8.5 million is for technical assistance consultants.

Governor's May Revision: Due to the fiscal situation, the May Revision proposes to rescind the entire \$35 million for the Anti-Youth Tobacco Program.

Subcommittee Staff Recommendation: It is recommended to concur the May Revision due to fiscal constraints.

8. Genetically Handicapped Persons Program (GHPP)—Internal Data Review

Background: The GHPP provides diagnostic evaluations, treatment services, and medical case management services for adults with certain genetic diseases, including cystic fibrosis, hemophilia, sickle cell disease, Huntington's disease, and certain neurological metabolic diseases.

Background—Hemophilia and Its Treatment: Generally, patients with hemophilia refers to a group of bleeding disorders, most commonly "factor 8" and "factor 9" deficiencies but also include von Willebrands Disease and other "factors". Patients with these disorders are classified based on their level of procoagulant that is deficient. Disease management through comprehensive hemophilia treatment centers is often recommended.

Individuals with these disorders require treatment with factor concentrates for bleeding episodes. These factor concentrates are medications that are either made through purification of plasma proteins or through a process of genetic engineering. These products are clinically complex and cannot be considered interchangeable. Prescriptions are usually written as brand name prescriptions after discussion of the particular product between patient and caregiver.

Governor's May Revision: The May Revision proposes expenditures of \$41.9 million (\$41.7 million General Fund, and \$150,000 enrollment fees) to provide treatment assistance to about 1,830 average annual participants (886 are GHPP only and 944 are Medi-Cal eligible).

The May Revision reflects an increase of \$6 million (General Fund) over the January Budget. The adjustments are consistent with existing policies, and reflects modest adjustments for caseload and utilization.

Increasing Program Costs and Internal Data Review: The GHPP Program has been growing exponentially. Actual expenditures in 1996-97 were only \$12 million (General Fund) compared with the Governor's May Revision at an estimated amount of \$41.9 million. This represents an increase of \$29.9 million or almost a 250 percent increase in costs within 5 to 6 years.

Based on inquiries made by the Subcommittee in the April 29th hearing, the DHS has begun an internal audit review to better discern (1) how rebates are applied and collected within the program, (2) how reimbursement rates are calculated, and (3) other program protocols and efficiencies

Subcommittee Recommendation: Based on the continued increases in the GHPP and the current DHS review of the program, it is recommended **to reduce the GHPP by \$2 million (General Fund) as a “placeholder” for Conference Committee pending further review and analysis by the DHS and others. It should be noted that this action is not intended to reduce or limit blood factor product.**

Subcommittee Request and Question: The Subcommittee has requested the DHS to respond to the following questions.

- **1.** Please provide an update on how cost data, including reimbursement invoices are being tracked and analyzed for expenditure and rebate. **Are more thorough program efficiencies needed?**
- When may additional program information be available to better discern what efficiency measures could be taken?

Budget Issue: Does the **Subcommittee want to (1)** adopt the May Revision adjustments, and **(2)** adopt the Subcommittee staff recommendation to reduce by \$2 million as a “placeholder” pending further analysis of the program?

LAST Item for Public Health Issues

V. 4440 Department of Mental Health

ITEMS FOR CONSENT

1. Request for Postage Rates--Deny

Governor's May Revision: The May Revision is requesting **an increase of \$19,000 (\$16,000 General Fund and \$3,000 in Reimbursements) due to increased postage.** Of this requested amount, \$13,000 is for the State Hospitals and \$6,000 is for headquarters support. The DMH states that the requested dollar amount reflects the anticipated impact of a likely 8.8 percent increase in postage rates to be implemented in the budget year and is needed due to recent budget cutbacks.

Subcommittee Staff Recommendation: Due to the drastic fiscal situation, Subcommittee staff recommends for the **Subcommittee to deny this proposal.**

2. Additional Federal Funds for the Projects for Assistance in Transition from Homeless (PATH)

Background: Since 1985, the DMH has been awarded federal funds through the Projects for Assistance in Transition from Homeless (PATH) to assist individuals with severe mental illness who are homeless. These funds are allocated to counties who choose to participate (now 47). Each county expends funds based on an annual service plan and budget. Allowable services include **(1)** habilitation and rehabilitation, **(2)** alcohol and other drug treatment, **(3)** housing services, **(4)** supportive services in residential settings, primary service referrals, **(5)** outreach, and **(6)** service coordination.

This program is presently funded at \$4.9 million (federal PATH grant funds). Of this amount, (1) \$1.3 million is earmarked for supportive housing demonstration projects for homeless persons with mental illness, (2) \$3.5 million is allocated to 47 counties that elect to participate in PATH, and (3) \$72,000 is used by the DMH for administrative expenses.

Governor's May Revision: The May Revision **reflects an increase of \$510,000 (federal PATH funds) due to an increase in the federal grant.** The DMH is proposing to use **(1) \$37,000 of this amount for department support to maximize the two percent allowed for administrative costs, (2) \$99,000 will be allocated to counties that had incurred a reduction in funds in 1997, and (3) \$374,000 will be allocated on a statewide basis.**

Subcommittee Staff Recommendation: Subcommittee staff **recommends to adopt the May Revision proposal.**

3. Salinas Valley Psychiatric Program Activation Delay

Background: The California Department of Corrections (CDC) is required to provide adequate medical and mental health care to all inmates who need it. **Through an interagency agreement, the CDC has contracted with the DMH to operate a 64-bed inpatient program at Salinas Valley.** This facility will enable the state to meet certain legal requirements as contained in the Gates and Coleman litigation against the CDC.

The CDC has notified the DMH that construction of the Salinas Valley facility—specifically the intermediate care mental health treatment program-- has been delayed by four months.

Governor's May Revision: The May Revision **proposes to reduce the DMH budget by \$1.450 million (reimbursements from the CDC) to reflect the delay.**

Subcommittee Staff Recommendation: No issues have been raised with this proposal. As such, Subcommittee staff recommends for the Subcommittee to **adopt** the proposal.

4. Salinas Valley Psychiatric Program Pay Differential

Background: The California Department of Corrections (CDC) is required to provide adequate medical and mental health care to all inmates who need it. **Through an interagency agreement, the CDC has contracted with the DMH to operate a 64-bed inpatient program at Salinas Valley.** This facility will enable the state to meet certain legal requirements as contained in the Gates and Coleman litigation against the CDC.

Governor's May Revision: The May Revision **proposes to increase the DMH budget by \$554,000 (reimbursements from the CDC) for recruitment and retention pay differentials** for various level-of-care professionals, nursing classifications, and for pharmacy positions at the facility. **Both the CDC and DMH maintain that without this recruitment and retention pay differential, they will not have sufficient staff to open or become licensed.** Specifically, a joint strategy was developed between the two departments and the Department of Personnel Administration for this funding request.

The funding request is based on providing a pay differential for a total of 76 positions, most of whom are Medical Technical Assistants (42 employees), Registered Nurses (11 employees), and Senior Medical Technical Assistants.

Subcommittee Staff Recommendation: Subcommittee staff concurs with the need for the pay differential. As such, it is recommended for the **Subcommittee to adopt the proposal.**

5. Healthy Families Program—Adjustment for Caseload

Background: The Healthy Families Program provides health care coverage and dental and vision services to children between the ages of birth to 19 years with family incomes at or below 250 percent of poverty (with income deductions) who are not eligible for no-cost Medi-Cal. Monthly premiums, based on family income and size, must be paid to continue enrollment in the program. **California receives an annual federal allotment of federal Title XXI funds (Social Security Act) for the program for which the state must provide a 34 percent General Fund match, except for supplement mental health services in which County realignment funds are used as the match. With respect to legal immigrant children, the state provides 100% General Fund financing.**

The enabling Healthy Families Program statute linked the insurance plan benefits with a **supplemental program** to refer children who have been diagnosed as being seriously emotionally disturbed (SED). The **supplemental services** provided to Healthy Families children who are SED can be billed by County Mental Health Departments to the state for a federal Title XXI match. **Counties pay the non-federal share from their County Realignment funds** (Mental Health Subaccount) to the extent resources are available.

Under this arrangement, the Healthy Families Program health plans are required to sign Memoranda of Understanding (MOU) with each applicable county. These MOUs outline the procedures for referral. It should be noted that the health plans are compelled, as part of the required Healthy Families benefit package and capitation rate, to provide certain specified mental health treatment benefits prior to referral to the counties.

Governor's May Revision: The May Revision proposes to reduce by \$239,000 (\$181,000 from Reimbursements and \$58,000 in General Fund support) to reflect adjustments to the HFP based on paid claims data and a reduction in the estimated percentage of legal immigrants requiring supplemental mental health services.

Subcommittee Staff Recommendation: Subcommittee staff recommends for the Subcommittee to adopt the proposal.

6. Reduce Non-Level-of-Care Staff at State Hospitals—Due to Slowed Growth

Background: The DMH states that due to the slowdown in state hospital population growth associated with forensic patients, the modular buildings purchased to accommodate for swing space at Patton and Atascadero state hospitals will not be needed until 2003-04.

Governor's May Revision: The May Revision proposes to reduce by 39.5 positions and about \$3.1 million (General Fund), including operating expenses, to reflect the reduced need for staff due to the slowing in the growth rate of the forensic population in the state hospitals.

Subcommittee Staff Recommendation: Subcommittee staff recommends for the Subcommittee to adopt the proposal.

7. Adjustment for San Mateo Pilot Project--Pharmacy & Laboratory Services

Background: The San Mateo County Mental Health Department has been operating as the mental health plan under a federal Waiver agreement and state statute as a “field test” since 1995. The field test is intended to test managed care concepts which may be used as the state progresses toward consolidation of specialty mental health services and eventually, a capitated or other full-risk model. As the model has matured and evolved, additional components have been added and adjusted.

As part of the contract negotiation with the DMH, trend factors for pharmacy and laboratory costs have been updated to more accurately reflect actual cost-based data. As such, the laboratory costs and pharmacy costs were adjusted in the current year.

For the budget year, the DMH is proposing to drop the risk corridor and settle on a fixed allocation for pharmacy and laboratory services. San Mateo is in agreement and is now ready to assume full risk of these services, if the allocation of General Fund for these services is increased to match cost data since January 1999.

DMH has determined that the pharmacy and laboratory benefit under the San Mateo field test is cost-neutral based on projections of the likely cost of the services if the benefit is eliminated from the field test.

Governors May Revision: The May Revision **proposes to reduce by \$1.3 million (General Fund) to reflect adjustments for the services.** Of this amount, \$914,000 is a base adjustment and \$408,000 is to reflect a reduction in pharmacy growth. These adjustments are based on updated data (as of April 2002).

Subcommittee Staff Recommendation: Subcommittee staff has raised no issues with this proposal and recommends that the **Subcommittee adopt the proposal.**

8. Reappropriation for Patton State Hospital Alarms and Sexually Violent Predator Facility--Construction

Background and Governor's May Revision: Funds were provided in the Budget Act of 2001 to (1) install alarm systems in certain buildings at Patton State Hospital, and (2) complete construction of a Sexually Violent Predator (SVP) facility at Coalinga.

The May Revision is requesting **a reappropriation of \$70,000 (General Fund) for the security alarm project at Patton State Hospital and \$331.5 million (Construction Bond funds) for the SVP facility.** According to the DMH, the Patton reappropriation is necessitated by delays encountered while negotiating architectural and engineering services during the preliminary plan phase.

Though the SVP facility construction is still on schedule, it is being bid out in four separate phases to accommodate bidding by small businesses. The major portion of construction has yet to proceed to bid and therefore requires reappropriation.

Subcommittee Staff Recommendation: Subcommittee staff recommends for the Subcommittee to adopt the May Revision.

9. Trailer Bill Language—Supportive Housing

Governor's May Revision: The May Revision proposed to amend Section 53300 (c) of the Welfare and Institutions Code by extending the timeframe for expenditure of the local grant awards appropriated in the Budget Act of 2001 from June 30, 2004 to June 30, 2005.

This technical amendment will enable local projects to effectively complete their projects for which they had received awards.

Subcommittee Staff Recommendation: It is recommended to adopt the language.

10. Proposed Reappropriation of Funds for a New Homeless Initiative

Governor's May Revision: The May Revision proposes to reappropriate \$300,000 in unspent General Fund moneys for the Governor's new homeless initiative.

Subcommittee Staff Recommendation: Due to the continued weakness in the stock market and the slowing of the economy, Subcommittee staff recommends to deny the request to reappropriate \$300,000 (General Fund) for a new initiative. Key mental health programs—particularly to children-- are being proposed for reduction and elimination, as such, new initiatives should be deferred.

11. Local Mandate –AB 3632 Special Education Pupils & Other Items

Governor's May Revision: The May Revision proposes to reduce the local mandates claim for this item by a total of \$64.8 million. This total consists of the following:

• Coroner's Costs (CH 498/77)	\$111,000
• Mentally Disordered Offender	\$198,000
• Not Guilty by Reason of Insanity	\$313,000
• Sexually Violent Predator	\$4.3 million
• Mental Health Services to Handicapped Students (CH 1747/84)	\$47.9 million
• Seriously Emotionally Disturbed Pupils (CH 654/96)	\$12 million

Subcommittee Staff Recommendation: Due to numerous and very complex pending issues—at the Commission on State Mandates, within the current budget deliberations, and pending policy

legislation—surrounding the provisions of “AB 3632” special education pupils it is recommended **to reject a total of \$59.928 million** of this proposed amount, pending further clarification of direction from the Legislature, the Administration and other involved parties. **The remaining \$4.906 million can be reduced.**

12. Technical Adjustments to Trailer Bill Language

May Revision: The May Revision is proposing technical adjustments to trailer bill language which will reflect adjustments to be made to the Early Mental Health Program due to small funding adjustments that were proposed by the Administration and adopted by both houses.

Subcommittee Staff Recommendation: It is recommended to adopt the technical changes.

13. Technical Reversions

Governor’s May Revision: The May Revision proposes to revert a total of \$3.1 million (General Fund) from unexpended funds appropriated in the Budget Act of 2001. This consists of \$625,000 in unspent funds for Dual Diagnosis, \$750,000 for the IMD Pilot Project and \$867,000 for local integrated services.

Subcommittee Staff Recommendation: It is recommended **to adopt the proposal.**

14. Lease Revenue Payments

Governor’s May Revision: The May Revision is requesting an increase **of \$16,000 (General Fund)** to reflect higher lease revenue insurance costs.

Subcommittee Staff Recommendation: It is recommended **to reject the proposal.**

15. Sexually Violent Predator Evaluations

Governor’s May Revision: The May Revision proposes **an increase of \$411,000 (General Fund)** for additional evaluations and for increased contract costs (evaluations performed by private contractors).

Subcommittee Staff Recommendation: Due to the fiscal situation, **it is recommended to deny** this increase. The cost of these evaluations continue to rise and cost increases have always been provided. As such, it is urged for the DMH to conduct more rigorous contract negotiations.

16. Rescind the Adjustment for Worker's Compensation Costs for State Hospitals

Governor's May Revision: The May Revision rescinds the January budget. The January budget had provided an increase of \$2.1 million (\$1.6 million General Fund) for the new Master Agreement. This agreement requires each state agency to deposit an amount equal to one-eighth of the benefits provided during the preceding twelve months. This amount is to be adjusted annually and will be rolled over at the beginning of each new rating period. All state agencies covered by the Master Agreement are required to pay their fair share of service costs associated with workers' compensation administrative services provided by the State Compensation Insurance Fund (SCIF).

Subcommittee Staff Recommendation: It is recommended to adopt this proposal.

ITEMS FOR DISCUSSION

1. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program

Background: Most children receive Medi-Cal services through the EPSDT Program. Specifically, EPSDT is a federally mandated program that requires states to provide Medicaid (Medi-Cal) recipients under age 21 any health or mental health service that is medically necessary to correct or ameliorate a defect, physical or mental illness, or a condition identified by an assessment, including services not otherwise included in a state's Medicaid (Medi-Cal) Plan.

The state uses the term "EPSDT supplemental services" to refer to EPSDT services which are required by federal law but are not otherwise covered under the state Medi-Cal Plan for adults. Examples of services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.

Though the DHS is the "single state agency" responsible for the Medi-Cal Program, mental health services, including those provided under the EPSDT, have been delegated to be the responsibility of the Department of Mental Health (DMH).

Further, at the local level, counties are responsible for providing, arranging and managing Medi-Cal mental health services under the supervision of the DMH and DHS.

EPSDT Implementation and Funding: Due to litigation, the DHS was required to expand certain EPSDT services, including outpatient mental health services. As such, the DHS and DMH crafted an interagency agreement in 1995 to implement expanded services.

Generally, this agreement requires the DHS to provide General Fund support as a match for EPSDT services administered by the counties which is above an annually adjusted baseline amount (essentially a county "maintenance-of-effort" requirement). The baseline

amount is established for each county based on a formula. **For 2002-2003, the baseline is \$129 million which means that the state will provide funding (via Medi-Cal) for costs above this amount.**

The General Fund dollars and accompanying federal matching funds are budgeted in the DHS and are transferred to the DMH as reimbursements. **The DMH distributes EPSDT funds to the county Mental Health Plans (MHPs) responsible for the provision of specialty mental health in each county. Final payment is based on cost settled actual allowable costs, or rates.**

Reasons Why Costs Continue to Increase: It is the ultimate goal of the state to eventually transfer the risk for EPSDT services to the counties, which now operate as Mental Health Plans (MHPs) under Medi-Cal Mental Health Managed Care. The transfer of risk, however, is dependent on determining a reasonable estimate of the appropriate level of reimbursement for that risk.

As noted by the DMH, the continuing expansion of EPSDT services in response to significant state policy changes has made such an estimate impossible. A variety of factors have contributed to the continued expansion, including legislative mandates, recent Medi-Cal Program expansions, legal decisions, recent Medi-Cal reimbursement adjustments for Psychologist and Psychiatrist services, and the fact that several counties were delayed in initially expanding their EPSDT services in the first place.

Prevalence Rate for California: Based on a number of studies which estimate the prevalence of children exhibiting various levels of functional impairment, **it is estimated that 20 percent of children suffer from diagnosable mental disorder, and up to 13 percent of these children are estimated to be seriously emotionally disturbed. Given these estimates it is likely that between 500,000 to 1.3 million children and adolescents in California have a severe emotional disturbance. As a comparison, the statewide average EPSDT penetration rate is about 5.3 percent (as of 2000-01).**

It should be noted that the **Little Hoover Commission's report** (October 2001) on the existing inadequacies in the children's mental health system considered the potential savings if children's mental health utilization increased by 10 percent—the estimated prevalence rate. In one year, they estimated that California would save 44 million in juvenile justice, \$27 million in CYA costs, \$78 million in residential treatment and \$1.4 million at Metropolitan State Hospital. **A total of \$110 million in savings!**

Governor's May Revision: In an effort to reduce General Fund support, the May Revision proposes **to decrease EPSDT funding by a net of \$60 million (increase of \$5 million to the counties, and a reduction of \$35 million General Fund and \$30 million federal funds) as follows:**

- A 10 percent county-share-of-cost (**\$5.4 million** to County Realignment funds/County General Fund), based on the estimated new growth of the program; and
- An assumed decrease in the growth percentage of the program.

The DMH assumes that EPSDT expenditures will decrease due to the 10 percent funding shift to the counties. No other assistance or analysis by the DMH is proposed—just make the counties do it.

The May Revision also incorporates Therapeutic Behavioral Services (TBI) into the EPSDT calculation. As such, the May Revision requests a technical reduction of \$33.3 million (\$16.172 million). This is purely a technical adjustment and Subcommittee staff has raised no issue.

Subcommittee Request and Questions: The Subcommittee has requested the DMH to respond to the following questions:

- **1.** Please provide a brief summary of the proposal, including the assumed utilization reduction.
- **2.** Does the Administration believe that requiring a county-share-of-cost is creating a new mandate? If not, why not?

Subcommittee Staff Recommendation: It is **recommended to (1)** adopt the total funding level as assumed in the May Revision **adjusting for deleting the county-share-of-cost and dividing this amount between state General Fund and federal funds (the normal split)**, and **(2)** adopt placeholder trailer bill language as follows:

The State Department of Mental Health shall, in consultation with a statewide organization representing county mental health services, strengthen and assure statewide application of managed care principles, building on existing county systems, to manage the Early Periodic Screening Diagnosis and Treatment Program benefit while assuring access to eligible Medi-Cal recipients.

2. Additional Federal Substance Abuse and Mental Health Services Administration (SAMHSA) Block Grant

Background: The state **currently receives \$54.6 million** (federal SAMHSA grant funds). **The majority of the funds--\$45 million—were allocated to 55 counties in accordance to existing statute (i.e., the old Cigarette and Tobacco Products Surtax Fund formula) for support of more than 150 programs statewide.** The DMH has established guidelines and procedures for use of the block grant funds that define the counties' responsibilities to provide comprehensive community mental health services to individuals who are either adults with serious mental illness or children with serious emotional disturbance.

The DMH also allocates a percentage of the block grant funds to counties on a competitive basis. In the current year, about \$7.7 million (federal SAMHSA grant funds) were allocated as follows:

- \$4 million for ongoing awards to support seven county Children's System of Care Programs;
- \$647,000 for five three-year supportive housing demonstration projects;
- \$2 million for four older adult system of care demonstration projects; and

- \$1.1 million for seven youth development and crime prevention projects.

A small amount of the funds are used to support the California Mental Health Planning Council as required by federal law.

In addition, the DMH uses about five percent of the funds for administration of the funds, as allowed by federal law.

Governor's May Revision: The state is to receive an increase of \$2.572 million (federal SAMHSA grant funds), for a total of \$57.2 million, for the state budget year. **As such, the May Revision proposes to expend the additional funds as follows:**

- **\$2 million** for the Integrated Services to the Homeless Program;
- **\$200,000** to contract out for efforts for increasing the availability of registered nurses and other mental health professionals in California as part of an overall workforce initiative addressing the statewide shortage in health care specialties. For example, funds will be used for human services academies—modeled after the LA county mental health association--, a nurse practitioner workgroup, ethnic focus groups to learn more about what attracts different groups into the mental health workforce, a direct consumer/member task force to develop strategies for increasing the number of consumers/family members available to provide mental health services, and related projects.
- **\$372,000** would be used for administering these funds in accordance with federal guidelines. Specifically these funds would be used to **(1)** contract out to analyze data and prepare federally required reporting information, and **(2)** provide funding for meeting the DMH's interagency agreement with the Health and Human Services Data Center.

Subcommittee Staff Recommendation: Due to the decline in the stock market and decline in revenues, it is recommended to **(1)** redirect the \$2 million (SAMHSA grant funds) to help backfill for the Children's System of Care Program (as discussed below), and **(2)** conform with the expenditures of the remaining \$572,000 as proposed.

Budget Issue: Does the Subcommittee **want to adopt or modify the proposal?**

3. Children's System of Care Program(CSOC) —Proposed Reduction

Background: Existing law authorizes counties to develop a comprehensive, coordinated children's mental health service system as provided under the Children's Mental Health Services Act.

The purpose of the program is to develop an integrated system of care for children who are severely emotionally and behaviorally disturbed, and their families. **The basic elements of the program include interagency coordination and collaboration, child/family-centered services, culturally competent services, and case management services.** Families of the children are full participants in all aspects of the planning and delivery of services.

The target population includes individuals 18 years of age and under who have a diagnosed mental disorder in which the disorder results in substantial impairment in two or more areas (such as self care, school performance, family relationships and ability to function in the community).

Under the program, accountability of services is required through measurable performance outcome goals. An evaluation of the program generally concluded that the program has been **very successful and cost-beneficial, including savings in service expenditures for group homes, special education, and juvenile justice.**

Recent Funding History: The Legislature has been very supportive of the program in the past. Legislative budget augmentations to facilitate statewide expansion have included **(1)** \$1.9 million in 1995, **(2)** \$7.1 million in 1996, **(3)** \$6 million in 1997, **(4)** \$20 million in 1998 which was reduced by Governor Wilson to a total of \$4 million, **(5)** \$13.4 million in 1999 which was reduced by Governor Davis to a total of \$2 million, and **(6)** a veto of \$2.1 million (General Fund) by Governor Davis in 2001.

Current Year Funding: The 2001-02 budget (current year) for the Children's System of Care (CSOC) Program is about **\$43.6 million (\$39.6 million General Fund and \$4 million federal SAMHSA grant funds). Of this amount \$42.7 million (\$38.7 million General Fund and \$4 million federal SAMHSA) is for county-related services.** The remaining amount is primarily for an evaluation (\$470,000), and technical assistance center (\$350,000).

Based on DMH funding guidelines for the program, all participating counties are currently funded at the recommended level. Four counties are unfunded—Fresno, Tulare, Colusa, and Alpine.

Governor's January Proposed Budget--Reduction: The January budget proposed a **reduction of almost \$4.2 million** (General Fund) for the Children's System of Care Program. This reduction proposed **(1)** \$3.8 million in funding for counties, and **(2)** about \$370,000 for an independent evaluation of the CSOC Program.

Prior Subcommittee Action: In the March 11th hearing, **the Subcommittee (1)** restored \$3.8 million (General Fund) for the Children's System of Care Program, **(2)** eliminated the \$3.5 million remaining in the Supportive Housing Program as a partial offset, and **(3)** adopted the proposed elimination of the \$370,000 for an independent evaluation.

Governor's May Revision: The May Revision **proposes to eliminate the program entirely** (other than local county SAMSHA funds that can be use for this purpose) **for "savings" of \$39.6 million (General Fund).**

Subcommittee Staff Recommendation: The value of the Children's System of Care Program cannot be overstated. It has undergone several evaluations which always note its efficacy and cost saving effectiveness. As such, it is recommended to **(1)** redirect the \$2 million (SAMSHA) in increased federal funds from the Integrated Services to the Homeless Program, as referenced in 2 item , above, and **(2)** increase by \$30 million (General Fund) to backfill for the program.

4. Adult Systems of Care Model for Individuals with Mental Illness At Risk of Homelessness

Background—Adult Systems of Care Model: In 1988, the Wright, McCorquodale, Bronzan Act (AB 3777) established reforms regarding services to **adults with serious mental illness**. It set forth a "**systems of care**" service delivery model whose core elements include consumer and family focused services, a personal service plan, coordinated services delivery system, intensive case management assistance, and the delivery of services that are measurable and accountable.

Three pilot projects were established through this legislation--one in Ventura County, one in **Los Angeles County, and one in Stanislaus County**. As noted by an independent evaluator and by reviews conducted by the DMH, these projects have proven to be highly successful. Though this integrated services approach was cost-effective and commendable, funding was never provided to expand to other counties.

AB 34 Projects—General Description: Generally, AB 34 (Steinberg), Statutes of 1999, and subsequent legislation (AB 2034, Statutes of 2000) directs the adults system of care model **to focus on people who are frequently homeless and/or incarcerated and who have little or no access to existing service programs**. The intended clients of this model are adults who have needs in many areas such as food, shelter, employment and rehabilitative services, as well as treatment. Their needs can rarely be met by human service agencies that operate in isolation or in non-collaborative environments.

Many adults who need these services don't have access or don't meet eligibility requirements for traditional mental health programs. For that reason, outreach to identify clients for these services is vital. Once identified, these adults are given access to a comprehensive service structure, created with new funds that are integrated with existing services and specifically oriented to the needs of these adults.

Governor's May Revision: The May Revision proposes to **(1)** eliminate the Adult Systems of Care Pilots for savings of over \$4.5 million (General Fund), and **(2)** reduce by \$10 million (General Fund) the Integrated Services for Homeless Adults Program.

Subcommittee Request and Questions: The Subcommittee **has requested for the DMH to respond to the following questions.**

- 1. Please briefly describe the proposal.
- 2. Please describe the Village, isn't it a model project?

Budget Issue: Does the Subcommittee **want to propose any modifications?**

5. Medi-Cal Specialty Mental Health Managed Care—Various Adjustments

Overall Background—Overview of Mental Health Managed Care: Implementation of Medi-Cal Mental Health Managed Care has included the consolidation of Medi-Cal psychiatric inpatient hospital services ("Phase I"), which occurred in January 1995 and the consolidation of Medi-Cal specialty mental health services ("Phase II"), which occurred from November 1997 through June 1998. **These two phases of implementation consolidated the two existing Medi-Cal mental health programs (Short-Doyle and Fee-For-Service) into one service delivery system. This consolidation required a Medicaid Waiver ("freedom of choice") and as such, the approval of the federal Health Care Financing Administration (HCFA).**

Under this delivery system, psychiatric inpatient hospital services and outpatient specialty mental health services, such as clinic outpatient providers, psychiatrists, psychologists, and some nursing services, became the responsibility of a single entity, the Mental Health Plan (MHP) in each county. Medi-Cal recipients *must* obtain services through the MHP.

Under this model, MHPs generally are at risk for the state matching funds for services provided to Medi-Cal recipients and claim federal matching funds on a cost or negotiated rate basis. An annual state General Fund allocation is provided to the MHP's for this purpose.

The DMH is responsible for monitoring and oversight activities of the MHPs to ensure quality of care and to comply with federal and state requirements.

Background—Standard Funding Adjustments: Mental Health Plans (MHPs) receive an annual state General Fund allocation from the DMH which is then used to draw down the federal Medicaid (Medi-Cal) matching funds. This allocation is adjusted each fiscal year to reflect adjustments as required by Chapter 633, Statutes of 1994 (AB 757, Polanco). **These adjustments typically include, changes in the number of eligibles served, factors pertaining to changes to the consumer price index for medical services, and other relevant factors.**

Governor's May Revision and Subcommittee Staff Recommendation: The Governor's May Revision contained the need for a few technical due to interactions with the Medi-Cal Program. As such, it is recommended to (using January as a base) **(1)** reduce by \$5.563 million (General Fund) to reflect the Administration's proposal to not fund the medical CPI, **(2)** reduce by \$5.097 million (General Fund) to account for the Administration's rollback of the Medi-Cal rate increases from the Budget Act of 2000, and **(3)** reduce by \$2.373 million to reflect a change in caseload. As such, the revised total is \$205.9 million.

Subcommittee Recommendation: Due to the current fiscal environment, it is recommended to approve this proposal.

6. State Hospital Population Adjustments

Governor's May Revision: The DMH estimates a population of 4,614 patients for 2002-03 (as of June 30, 2003) at the four State Hospitals -- Napa, Metropolitan, Patton, and Atascadero. This reflects an overall *decrease of 73 patients*.

As such, a reduction of 171.8 positions and a savings of \$12.3 million (\$14 million General Fund savings and an increase of \$2.5 million Realignment Reimbursements) is reflected for a net reduction of 87 judicially committed/Penal Code patients from the Governor's January budget (4,687 patients to 4,600 patients.)

Subcommittee Staff Recommendation: No issues have been raised. It is therefore recommended to **adopt the adjustments**.

7. Preadmission Screening for Non-Medi-Cal Nursing Facility Residents

Background: In 1989-90, California implemented the provisions of the federal Nursing Home Reform Act. As such, DHS (as the single state Medicaid agency) filed a State Plan Amendment in 1993 to limit Preadmission Screening and Resident Review (PSS) evaluations to *Medi-Cal eligible* recipients in Skilled Nursing Facilities and Intermediate Care Facilities. DHS communicated to the federal government that it did not intend to screen private patients. The federal government never approved the State Plan Amendment.

In November 2001, the federal CMS officially denied California's 1993 State Plan Amendment.

Finance Letter: the DMH is requesting an increase of almost \$3.2 million (\$789,000 General Fund and almost \$2.4 million in Reimbursements from the DHS of which about 50 percent, or about \$1.2 million is General Fund to the DHS) to fund 7.5 positions, as well as expenses associated with a contract and operating expenses to provide Preadmission Screening and Resident Review for Mental Illness (PASRR/MI) for non-Medi-Cal nursing facility residents.

Of the requested amount \$933,000 is one-time only (\$233,000 General Fund and \$700,000 in Reimbursements from the DHS—or about \$350,000 in DHS General Fund) and would be used to conduct evaluations for *existing residents* in nursing facilities and Institutes for Mental Disease.

The DMH states that this funding would enable California to comply with current federal regulations governing the PASRR Program.

Subcommittee Staff Recommendation: Subcommittee staff is recommending to approve only the \$933,000 in one-time only funds and to reject the \$2.2 million in on-going costs. Due to the current fiscal situation, on-going expenditures

VI. 4300 Department of Developmental Services

A. ITEMS FOR CONSENT

1. Conforming Action Regarding Study

Prior Subcommittee Action: In a prior hearing, the Subcommittee adopted Budget Bill Language to require the Department of Rehabilitation and the Department of Developmental Services to review the Supported Employment Programs, Work Activity Programs and other work activity programs as deemed appropriate by the two departments. The specific language is noted below:

“The Department of Developmental Services and the Department of Rehabilitation shall review the operation of Supported Employment Programs, Work Activity Programs, and other work activity programs in each department as deemed appropriate by the departments. They shall together examine the rates paid to providers of such activities, the eligibility for participation in each program, and consumer outcome measures.. The two departments shall provide this information to budget and policy committees of the Legislature by February 1, 2003. The departments may include a recommendation for streamlining and consolidating these programs, if the findings warrant such a proposal.”

Subcommittee Staff Recommendation: The above language was adopted under the Department of Rehabilitation item and **needs to be adopted under the DDS item as a conforming action. As such, Subcommittee staff recommends adoption of the above language.**

2. State Compensation Insurance Fund Master Agreement—Rescind Action

Prior Subcommittee Action: The Governor’s January budget requested an increase of \$419,000 General Fund (\$4,000 for Headquarters and \$415,000 for the Developmental Centers) in accordance with the new three-year Master Agreement negotiated by the Department of Personnel Administration for the administration and payment of workers’ compensation benefits. All state agencies covered by the Master Agreement are required to pay their fair share of service costs associated with workers’ compensation administrative services provided by the State Compensation Insurance Fund (SCIF).

Subcommittee Staff Recommendation: It is recommended **to delete these funds from the Governor’s January Budget due to the current fiscal constraints.**

3. Rescind Capital Outlay Project for Lanterman Developmental Center

Background and Governor's May Revision: A total of \$3.780 million (General Fund) was proposed in the January budget to complete certain capital outlay projects at Lanterman Developmental Center pertaining to security upgrades.

The May Revision has proposed to rescind these funds.

Subcommittee Staff Recommendation: Staff concurs with the May Revision to delete \$3.780 million (General Fund) for this project.

4. Local Mandate--Deferral

Governor's May Revision: The May Revision proposes to reduce the local mandates in this Item by a total of \$492,000. These are as follows:

- | | |
|------------------------------------|-----------|
| • Judicial Proceedings (CH 644/80) | \$88,000 |
| • Attorney Fees (CH 694/75) | \$192,000 |
| • Representation (CH 1253/80) | \$108,000 |
| • Conservatorships (CH 1304/80) | \$104,000 |

Subcommittee Staff Recommendation: It is recommended to **concur** with this proposal.

5. Revert Unexpended Funds from Past Years

Governor's May Revision: The May Revision proposes to revert a total of \$35 million in unexpended General Fund support from past years from the local assistance item.

Subcommittee Staff Recommendation: It is recommended to **concur**.

6. Suspend Regional Center Performance Incentives

Governor's May Revision: The May Revision proposes to delete reappropriation authority in order to suspend the Regional Center performance incentives, resulting in \$4 million in General Fund savings.

Subcommittee Staff Recommendation: It is recommended to **concur**.

7. Adopt Reappropriation Language for Los Angeles Forensic Project

Governor's May Revision: The May Revision proposes to adopt reappropriation language in order to continue the valuable Los Angeles forensic project.

Subcommittee Staff Recommendation: It is recommended to **concur**.

8. Budget Bill Language for Emergency Regulation Authority—Federal Funds

Governor's May Revision: The May Revision proposes Budget Bill Language as follows:

“The Department may promulgate regulations specifically for implementing proposals to increase federal funding to the state. Such regulations shall be deemed an emergency necessary for the immediate preservation of the public peace, health, and safety or general welfare for purposes of subdivision (b) of Section 11346.1 of the Government Code.”

Subcommittee Staff Recommendation: It is recommended to **concur**.

B. ITEMS FOR DISCUSSION—Developmental Centers

1. State Developmental Center Adjustments

Background Overall: State Developmental Centers (DCs) are fully licensed and federally certified as Medicaid providers via the California Department of Health Services. They provide direct services which include the care and supervision of all residents on a 24-hour basis, supplemented with appropriate medical and dental care, health maintenance activities, assistance with activities of daily living and training. Education programs at the DCs are also the responsibility of the DDS.

The DDS operates five Developmental Centers (DCs)—Agnews, Fairview, Lanterman, Porterville and Sonoma. Porterville is unique in that it provides forensic services in a secure setting.

In addition the department leases **Sierra Vista**, a 54-bed facility located in Yuba City, and **Canyon Springs**, a 63-bed facility located in Cathedral City. Both facilities provide services to individuals with severe behavioral challenges.

Governor's May Revision—Summary: The May Revision proposes expenditures of **\$629 million (\$343.7 million General Fund) to serve 3,667 residents who reside in the state developmental centers system. This reflects a caseload increase of 31 residents and an increase of \$4.3 million (decrease of \$2.7 million in General Fund and an increase of \$6.9 million in Reimbursements, primarily federal funds) as compared to Governor's January**

proposed budget. The DDS states that the estimated caseload is based on DC admissions, mortality, and placements into the community.

Developmental Center	January Estimated 2002-03 Population	May Revision Estimated 2002-03 Population	Difference
Agnews	440	454	14
Canyon Springs	59	50	-9
Fairview	794	781	-13
Lanterman	622	640	18
Porterville	830	851	21
Sierra Vista	57	53	-4
Sonoma	834	838	4
TOTALS	3,636	3,667	31

May Revision Key Adjustments: The key adjustments are as follows:

- **A. Level of Care (LOC) Staffing Adjustments for DC Population:** The May Revision is proposing an increase of \$4.2 million (\$2.6 million General Fund) to fund 69 new positions to provide LOC staffing for the residents. The LOC staff includes 47 nursing-related staff and 22 other professional staff.

Each year, the budget is adjusted to reflect direct care and non-level-of-care staffing requirements in order to meet resident needs and licensing requirements. These staffing adjustments are based on the projected number of individuals living at the DCs and their individual program needs based on the Client Developmental Evaluation Report (CDER) process.

- **B. Delay in Certification—Canyon Springs:** The May Revision assumes an increase of \$748,000 (General Fund) due to the lack of certification at the Canyon Springs facility. The January budget had assumed that this facility would obtain certification by February 1, 2002. In the April 8th Subcommittee hearing, the DDS had anticipated that the DHS would conduct a certification review in July 2002.
- **C. Adjusted Billing Rates for Sierra Vista and Canyon Springs:** The May Revision reflects savings of \$5.1 million (General Fund) due to revised billing rates and the corresponding increase in federal funds. Specifically, the DDS can now bill up to \$536 per client per day for Sierra Vista and up to \$590 per client per day for Canyon Springs. These rates were just recently agreed to by the DHS, the state's sole Medicaid agency.
- **D. Porterville Developmental Center—No Certification for Special Treatment Program:** The May Revision continues to provide \$15.9 million in General Fund support to backfill for the loss in federal funds due to the lack of certification for the STP unit. This unit has stringent security measures that, at this time, do not meet the criteria for Medicaid (Medi-Cal) federal certification.

Subcommittee Request and Question: The Subcommittee has requested the DDS to respond to the following question.

- **1. Please briefly explain the increase in population, including the decision to place additional consumers at Agnews DC.**
- **2. Please provide an update on the lack of certification at Canyon Springs and at Porterville.**

C. ITEMS FOR DISCUSSION—Community Based Programs

1. Regional Center Estimate Package Adjustments—Issues “A” Through “I”

Background: The DDS contracts with 21 not-for-profit Regional Centers (RCs) which have designated catchment areas for service coverage throughout the state. The RCs are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers. RCs also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.

Governor’s May Revision--Summary: The May Revision proposes total expenditures of \$2.2 billion (\$1.6 billion General Fund) which reflects a *net decrease of almost \$13.2 million (decrease of \$90.3 million General Fund, increase of \$71 million federal Title XX Social Services Block Grant funds, increase of \$7.4 million in federal Medicaid Waiver and other adjustments)*, or 1 percent, from the Governor’s January budget.

Of the \$13.2 million reduction, (1) \$7.4 million is in Purchase Of Services (POS), **(2)** \$3 million is in Regional Center Operations, and **(3)** \$2.8 million is an adjustment for habilitation services obtained through the Department of Rehabilitation.

Of the total appropriation, about \$1.812 billion is for the Purchase Of Services (POS), including the Early Start Program and habilitation services, and \$389.1 million (total funds) is for Regional Center Operations.

The POS portion of the Regional Center budget accounts for about 82 percent of total expenditures. The May Revision proposes to *reduce POS expenditures by \$7.4 million (total funds)* as compared to the January proposed budget. Total expenditures for each POS category is as follows:

- | | |
|-------------------------|-----------------|
| • Residential Placement | \$542.5 million |
| • Day Programs | \$540 million |
| • Other services | \$585 million |

(respite, support services, health care & others)

- Transportation \$160.9 million

Subtotal	\$1.829 billion
POS Savings	<u>- \$52 million (3 percent)</u>
May Revision TOTAL	\$1.777 billion

With respect to **caseload**, the May Revision assumes **that 172,505 consumers will receive community based services which assumes *no change* from the January budget proposal.**

The May Revision proposes to *reduce* Regional Center Operations by almost \$3 million (total funds) as compared to the January proposed budget.

Comparison of May Revision to Budget Act of 2001: It should be noted that the May Revision for 2002-03 reflects an overall increase of \$147.7 million (total funds) from the Budget Act of 2001.

Governor's May Revision—Key Adjustments: The *key adjustments* as contained in the May Revision are as follows:

- **A. Baseline Adjustments for Population and Service Utilization:** The May Revision assumes **no additional expenditures for increased utilization**. Further, since the estimated caseload remains the same as proposed in the January budget (i.e., 172,505 consumers), **no adjustments were needed for caseload**. As such, the Governor's January budget proposal to increase by \$27.9 million (total funds) over the current year (2001-02) to reflect updated population, utilization of services and expenditure data, remains as is for the May Revision.

In addition, the extension for intake (from 60 to 120 days), and the suspension of non-Community Placement Plan start-up, as discussed below, will have a dampening effect on the utilization of services.

- **B. Fund Shift—Title XX Social Services Block Grant Funds:** The May Revision proposes **to use \$71 million in federal Title XX Social Services Block Grant funds in lieu of General Fund support for the Regional Centers**. No state match is required. These funds can be used for a wide array of services, and in fact, the DDS currently obtains \$111 million annually from this source. This proposed increase in block grant funds would bring the total to \$182 million (federal Title XX Social Services Block Grant Fund).
- **C. Home and Community-Based Waiver—South Central LA Regional Center:** The DHS and DDS have been in communication with the federal CMS regarding the deferment of payment (i.e., federal funds) for Waiver services furnished by South Central Los Angeles Regional Center (SCLARC). **The federal CMS will now consider lifting the deferral** once it receives copies of specified fiscal audit and compliance materials which the state will be providing shortly (documents from DDS via the DHS to the federal government). **The DDS**

will be requesting that the state be allowed to claim federal reimbursement for SCLARC Waiver consumers effective July 1, 2002.

The May Revision assumes that an additional 1,296 consumers will be added to the Waiver by the inclusion of SCLARC. **An increase of about \$11.3 million in federal funds with a corresponding decrease in General Fund (fund shift) is reflected for this purpose.**

It should be noted that the federal CMS has historically provided retroactive payment back to the initial date of the action. Therefore, even if the federal CMS does not make a determination regarding deferment until Fall, the likelihood of them providing retroactive funding back to July 1 is excellent.

- **D. Community Placement Plan:** The May Revision is proposing to provide the same funding level of **\$50.2 million, for an increase of \$20.5 million over the current year, as contained in the January budget.**

However, proposed expenditures have been realigned between Operations and Purchase of Services (POS) to reflect updated Regional Center plans. Specifically, Regional Center Operations are being increased by almost \$1.5 million and POS is being reduced by \$1.5 million (i.e., net of zero). Of the \$50.2 million total, \$43 million is for POS expenditures, and \$7.2 million is for Regional Center Operations.

- **E. Suspension of Start Up (One Year Only):** The Administration is proposing to **suspend for one year (2002-03 budget year only) the expenditure of Purchase of Services (POS) funds for start-up of any new programs unless (1) the expenditure is necessary to protect consumer health or safety *and* the DDS has granted prior authorization for the expenditure, *or* (2) expenditures for start-up of new programs were made pursuant to a contract entered into prior to July 1, 2002. This action is intended to save \$6 million. This proposal does not affect start-up expenditures attributable to CPP.**
- **F. Extend Intake & Assessment from 60 Days to 120 Days (One Year Only):** The Administration is proposing to extend the timeframe for the Regional Centers to conduct intake and assessment of consumers **from 60 days to 120 days for the budget year only. This proposal assumes a savings of \$4.5 million (General Fund) in the Regional Center Operations budget. This proposed adjustment will require trailer bill language.**

During the fiscal crisis of 1992, the timeframe for intake and assessment was moved from 60 days to 120 days (as is being proposed in this May Revision). Pursuant to a revision to Section 4643 of the Welfare and Institutions Code, the timeframe was reverted back to 60 days from 120 days as of July 1, 2000 when funding was made available for this purpose. Therefore, the May Revision is now proposing a one-year enactment of this past policy in order to save General Fund moneys.

- **G. Technical Adjustment for SSI/SSP Community Care Facility Pass-Through:** The May Revision incorporates the Administration's decision to increase only the SSI portion of the SSI/SSP payments. Previously, the DDS January budget was in error because it had reflected

an adjustment for SSP as well, though the DSS budget package had not included this increase.

The state provides payment to Community Care Facilities (CCFs) through the Regional Centers. Generally, the reimbursement consists of the SSI/SSP amount and a state supplement which pays the remaining amount. Since the Budget Act of 1998, cost-of-living-adjustments for SSI/SSP have been “passed-through” to the provider as a rate adjustment.

- **H. Additional Funding for Autism:** The May Revision **continues** an increase in Purchase of Services of \$17.2 million over the current year to recognize increased expenditures attributable to the caseload growth of individuals diagnosed with Autism and the corresponding utilization of intensive services.
- **I. Early Start Program—Minor Fund Shift:** The Early Start Program (services for children aged birth to 3 years) is budgeted at \$49.4 million (\$2.8 million General Fund) in the May Revision which reflects **no net dollar change. However, \$1.3 million in federal funds from the prior year have been identified and are proposed to be used in lieu of General Fund support in the budget year.**

Subcommittee Request and Questions: The Subcommittee has requested the DDS to respond to the following questions:

- 1. Please provide a **brief summary of the May Revision proposal using the above listed items as an outline.**
- 2.

Subcommittee Staff Recommendation: Subcommittee staff recommends to adopt the May Revision, as outlined above,

Budget Issue: Does the Subcommittee want to adopt or modify the above discussed sections of the Regional Center May Revision estimate package?

2. Proposed Trailer Bill Language for Community Placement Plan (See Hand Outs-2) And Regional Resource Development Projects

Background: Existing statute requires the DDS to ensure that individuals with developmental disabilities live in the least restrictive setting which is appropriate to their needs.

The **Community Placement Plan (CPP)** is designed to assist Regional Centers in providing necessary services and supports for individuals to, when appropriate, move from state Developmental Centers (DC) to community-based services. It will also provide the resources necessary to stabilize the selected community living arrangements of individuals who have been referred to the Regional Resource Development Project (RRDP) for alternatives to admission to a DC (i.e., deflection).

Revised CPP Process: Beginning in the budget year, the DDS proposes to change the way it estimates funding for the CPP. In the past, the DDS provided funding based on estimated placements as projected by the Regional Centers. As such, there was minimal accountability under this old method.

Under the revised CPP process, the Regional Centers must provide the DDS with detailed plans regarding:

- The individual consumers, needed resources, services and supports who will be moved from the DCs;
- The individuals referred to RRDP due to unstable community living arrangements and what their needed resources are; and
- The individuals who will be assessed for community placement.

These plans will be updated *twice* annually to ensure continuity of services and appropriate funding levels. The DDS states that they will be working closely with the RCs, individuals and their families, each RRDP and the DCs to coordinate the involvement and support to implement the plans that will result in individuals living in community settings.

Prior Subcommittee Action: In the April 8th hearing, the Subcommittee adopted placeholder language to codify the CPP and RRDP processes. Since this time, Subcommittee staff has drafted language for the Subcommittee to review and adopt.

Budget Issue: Does the Subcommittee want to modify or adopt the language?

3. Administration's Proposal for Statewide Purchase of Services Standards **(See Hand Out for Alternative Language)**

Background: The Regional Centers are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers. **Regional Centers also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.**

The Governor's budget proposes to expend \$1.784 billion for Regional Center's to purchase services for consumers.

As recognized in the Lanterman Act, differences (to certain degrees) may occur across communities (Regional Center catchment areas) to reflect the individual needs of the consumers, the diversity of the regions which are being served, the availability and types of services overall, access to "generic" services (i.e., services provided by other public agencies which are similar in charter to those provided through a Regional Center), and many other factors.

The DDS, in consultation with the Association of Regional Center Agencies, annually allocates POS funds through a contract process in which each RC receives a base allocation and then subsequent allocations as determined by the DDS. **The allocation of POS funds is primarily based on the previous year's contract level plus growth which may not be fully reflective of consumers needs in some areas.**

Comments from the Legislative Analyst's Office: In her Analysis, the LAO notes that the absence of statewide standards has created wide variances across Regional Centers in the delivery of services. **As identified in a Bureau of State Audits Report, Regional Center consumers with similar needs have been provided significantly different levels of financial, clinical, and social supports through the program.**

This report compelled the Legislature to request the DDS to conduct a more comprehensive analysis—Purchase of Services Study #1—which likewise found some significant disparities among the Regional Centers in both the extent and frequency of the services provided.

The LAO contends that without statewide standards on the availability of services, General Fund support has grown according to demand, not according to any predetermined policy or strategy to allocate dollars for services deemed to have the highest priority or the greatest effectiveness.

Governor's Proposed Budget): The budget is proposing (1) a reduction of \$52 million (General Fund), or about 3 percent of the POS budget, (2) trailer bill language to provide the DDS with the authority to promulgate emergency regulations to craft statewide standards for POS, and (3) trailer bill language that amends existing statute to eliminate the review of Regional Center POS policies by the DDS.

Overview of Administration's Trailer Bill Language—Statewide Standards for POS: The Administration proposes to **add Section 4631.5** to the Welfare and Institutions Code to develop and implement statewide standards for POS. **It should be noted that this language contains a sunset date of July 1, 2005. Generally this language:**

- Provides the DDS with **emergency regulation authority** to promulgate regulations (within 90 days of passage of the Budget Act) governing POS.
- Articulates a series of principles with respect to individual POS determinations.
- Provides a framework that would address the following:
 - Standards which are **consistent throughout the state;**
 - **Parameters for the type, amount, duration, and intensity of specified services and supports;**
 - The use of all possible alternative sources of funding before using Regional Center funds (i.e., use generic services);
 - **An exception process;**
 - Establish procedures for consistent application of the standards;
 - Mechanisms to maximize the capture of federal funds; and
 - **Not alter a consumer's eligibility for services or adversely affect consumers' health and safety.**
- Sunsets as of July 1, 2005 and is repealed as of January 1, 2006.

Proposed Amendments to Existing DDS Oversight of Regional Center POS Policies: As part of the budget proposal, **the Administration is also proposing to amend Section 4434 of W&I Code to eliminate the requirement for the DDS to review and approve all new and revised Regional Center POS policies.**

In lieu of existing statute which requires collection and review of these materials, the newly proposed language is (1) permissive (uses the term “may” versus “shall”), and **(2)** makes reference to “operating policies and procedures”, **not** service guidelines and other policies utilized by the Regional Centers when determining the service needs of the consumer as existing law requires. This permissive language is vague and does not convey the same level of oversight responsibility as existing law provides.

Constituency Concerns: Constituency groups are concerned with the proposal for several reasons. First, the Association of Regional Center Agencies contends that the reduction is an “unallocated reduction” and that the proposal would result in a reduction of services to consumers. Second, Protection and Advocacy Incorporated believes that the proposal would fundamentally change the Lanterman Act and that it would deprive consumers of their entitlement to services.

In addition, concerns have also been expressed about the use of emergency regulations, with no sunset date on the urgency, as well as deletion of the oversight responsibility of the

DDS to review the Regional Center’s POS policies, even if statewide standards are developed.

Prior Subcommittee Action: In the April 8th hearing, the Subcommittee heard extensive testimony from constituency groups expressing concerns with the adjustment. As such, the Subcommittee held “open” this issue pending receipt of the May Revision.

Subcommittee Staff Recommendation: Due to the gravity of the fiscal situation, Subcommittee staff would recommend to:

- **(1)** Adopt the Governor’s proposal **to reduce by \$52 million;**
- **(2)** Adopt placeholder trailer bill language (See Hand Out) in lieu of the DDS’ proposed language; and
- **(3)** Reject the trailer bill language which would eliminate the requirement for the DDS to review and approve all new and revised Regional Center POS policies.

THIS IS THE LAST PAGE OF THIS AGENDA—On to AGENDA III